

AMENDED IN SENATE JANUARY 4, 2012

AMENDED IN SENATE APRIL 14, 2011

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 544

Introduced by Senator Price

February 17, 2011

An act to amend Sections 116, 155, 159.5, 726, ~~802.1~~, 803, 803.5, 803.6, ~~822~~, 1695, 2246, 2360, 2662, 2770, 2960.1, 3534, 4860, 4982.26, and 4992.33 of, and to add Sections ~~40, 42, 44~~, 505, 734, 735, ~~736~~, 737, 803.7, 803.8, 857, 1688, 1688.1, 1688.2, 1688.3, ~~1688.4~~, 1688.5, 1688.6, 1707, 1947.1, 1947.2, 1947.3, 1947.4, ~~1947.5~~, 1947.6, 1947.7, 1947.8, 1954.5, 2320, 2458.1, 2533.5, 2533.6, 2533.7, 2533.8, 2533.9, ~~2533.10~~, ~~2533.11~~, 2533.12, 2533.13, 2533.14, 2538.52.5, 2570.38, 2570.39, 2570.40, 2570.41, ~~2570.42~~, ~~2570.43~~, ~~2570.44~~, 2570.45, 2570.46, 2570.47, 2570.48, 2661.8, 2661.9, 2661.10, 2661.11, ~~2661.12~~, ~~2661.13~~, ~~2661.14~~, 2661.15, 2661.16, 2661.17, 2673, 2766, 2766.1, 2766.2, 2766.3, ~~2766.4~~, ~~2766.5~~, ~~2766.6~~, 2766.7, 2766.8, 2799.2, 2879.1, 2879.2, 2879.3, 2879.4, ~~2879.5~~, ~~2879.6~~, ~~2879.7~~, 2879.8, 2879.10, 2886.5, 2969.1, 2969.2, 2969.3, 2969.4, 2972, 3112, 3112.1, 3112.2, 3112.3, ~~3112.4~~, ~~3112.5~~, ~~3112.6~~, 3112.7, 3112.8, 3112.9, ~~3123~~, 3405, 3405.1, 3405.2, 3405.3, ~~3405.4~~, ~~3405.5~~, ~~3405.6~~, 3405.7, 3405.8, 3405.9, 3531.1, 3531.2, 3531.3, 3531.4, ~~3531.5~~, ~~3531.6~~, ~~3531.7~~, 3531.8, 3531.9, 3531.10, 3533.5, 3664.5, 3665, 3665.1, 3665.2, 3665.3, ~~3665.4~~, ~~3665.5~~, ~~3665.6~~, 3665.7, 3665.8, 3665.9, 3769.4, 3769.5, 3769.6, 3769.7, ~~3769.8~~, 3769.9, 3769.10, ~~3769.11~~, 4316, 4316.1, 4316.2, 4316.3, ~~4316.4~~, 4316.5, 4316.6, ~~4344~~, 4375, 4526, 4526.1, 4526.2, 4526.3, ~~4526.4~~, ~~4526.5~~, ~~4526.6~~, 4526.8, 4526.9, ~~4543.5~~, 4888, 4888.1, 4888.2, 4888.3, ~~4888.4~~, 4888.5, 4888.6, 4888.7, 4962, 4964.1, 4964.2, 4964.3, 4964.4, ~~4964.55~~, ~~4964.6~~, ~~4964.7~~, 4964.8, 4964.9, 4964.10, ~~4990.43~~, 4990.44, 4990.45,

4990.46, 4990.47, ~~4990.48, 4990.49, 4990.50, 4990.51, 4990.52, and 4990.53 to, to add Article 16 (commencing with Section 880) to Chapter 1 of Division 2 of, and to repeal Sections 2608.5 and 2660.5 of, the Business and Professions Code, and to add Section 12529.8 to the Government Code, relating to professions and vocations.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 544, as amended, Price. Professions and vocations: regulatory boards.

(1) Existing law provides for the licensure and regulation of profession and vocation licensees by various boards within the Department of Consumer Affairs. Within the department, there are healing arts boards and nonhealing arts boards. The department is under the control of the Director of Consumer Affairs.

~~This bill would require cooperation between state agencies and all boards within the department when investigating a licensee, and would require a state agency to provide to the board all licensee records in the custody of the state agency. The bill would require all local and state law enforcement agencies, state and local governments, state agencies, licensed health care facilities, and any employers of any licensee to provide licensee records to any board within the department upon request by that board, and would make an additional requirement specific to the Department of Justice. By imposing additional duties on local agencies, the bill would impose a state-mandated local program. the Department of Justice to serve or submit to a healing arts board for service accusations and default decisions within a specified timeframe and would also require the Department of Justice to set a hearing within a specified timeframe upon receiving a notice of defense, except as specified.~~

The bill would prohibit a licensee regulated by a board within the department from including certain provisions in an agreement to settle a civil litigation action arising from his or her practice, as specified.

(2) Existing law authorizes the director to audit and review, among other things, inquiries and complaints regarding licensees, dismissals of disciplinary cases, and discipline short of formal accusation by the Medical Board of California and the California Board of Podiatric Medicine.

This bill would additionally authorize the director or his or her designee to audit and review the aforementioned activities by any of the healing arts boards.

Existing law authorizes the director to employ investigators, inspectors, and deputies as are necessary to investigate and prosecute all violations of any law, the enforcement of which is charged to the department, or to any board in the department. Inspectors used by the boards are not required to be employees of the Division of Investigation, but may be employees of, or under contract to, the boards.

This bill would authorize healing arts boards to employ investigators who are not employees of the Division of Investigation, and would authorize those boards to contract for investigative services provided by the Department of Justice. The bill would also establish within the Division of Investigation the Health Quality Enforcement Unit to provide investigative services for healing arts proceedings.

The bill would require all healing arts boards within the department to report annually, by October 1, to the department and the Legislature certain information, including, but not limited to, the total number of complaints closed or resolved without discipline, the total number of complaints and reports referred for formal investigation, and the total number of accusations filed and the final disposition of accusations through the board and court review, respectively.

The bill would also provide that it is an act of unprofessional conduct for any licensee of a healing arts board to fail to furnish information in a timely manner to the board or the board's investigators, or to fail to cooperate and participate in any disciplinary investigation pending against him or her, except as specified.

~~Existing law requires a physician and surgeon, osteopathic physician and surgeon, and a doctor of podiatric medicine to report to his or her respective board when there is an indictment or information charging a felony against the licensee or he or she has been convicted of a felony or misdemeanor.~~

~~This bill would expand that requirement to a licensee of any healing arts board, as specified, and would further require a report when disciplinary action is taken against a licensee by another healing arts board or by a healing arts board of another state or an agency of the federal government.~~

Existing law requires the district attorney, city attorney, and other prosecuting agencies to notify the Medical Board of California, the Osteopathic Medical Board of California, the California Board of

Podiatric Medicine, the State Board of Chiropractic Examiners, and other allied health boards and the court clerk if felony charges have been filed against one of the board's licensees. Existing law also requires, within 10 days after a court judgment, the clerk of the court to report to the appropriate board when a licensee has committed a crime or is liable for any death or personal injury resulting in a specified judgment. Existing law also requires the clerk of the court to transmit to certain boards specified felony preliminary transcript hearings concerning a defendant licensee.

The bill would instead make those provisions applicable to all healing arts boards. By imposing additional duties on these local agencies, the bill would impose a state-mandated local program.

The bill would require a healing arts board, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California to query the federal National Practitioner Data Bank prior to, among other things, granting a license to an applicant who is currently residing in another state or granting a petition for reinstatement of a revoked or surrendered license.

This bill would make it a crime to engage in the practice of *certain* healing arts without a current and valid license, ~~except as specified~~; or to fraudulently buy, sell, or obtain *such* a license to practice *certain* healing arts. By creating new crimes, the bill would impose a state-mandated local program.

(3) Under existing law, healing arts licensees are regulated by various healing arts boards within the department. These boards are authorized to issue, deny, suspend, and revoke licenses based on various grounds and to take disciplinary action against a licensee for the failure to comply with their laws and regulations. Existing law requires or authorizes a board to appoint an executive officer to, among other things, perform duties delegated by the board.

This bill would authorize a healing arts board to delegate to its executive officer, where an administrative action has been filed by the board to revoke the license of a licensee and the licensee has failed to file a notice of defense or appear at the hearing, the authority to adopt a proposed default decision. The bill would also authorize a healing arts board to enter into a settlement with a licensee or applicant in lieu of the issuance of an accusation or statement of issues against the licensee or applicant.

The bill would also provide that the license of a licensee of a healing arts board shall be suspended if the licensee is incarcerated after the

conviction of a felony and would require the board to notify the licensee of the suspension and of his or her right to a specified hearing. The bill would specify that no hearing is required, however, if the conviction was for a violation of federal law or state law for the use of dangerous drugs or controlled substances or specified sex offenses; a violation for the use of dangerous drugs or controlled substances would also constitute unprofessional conduct and a crime, thereby imposing a state-mandated local program.

~~The bill would prohibit the issuance of a healing arts license to any person who is a registered sex offender, and would provide for the revocation of a license upon the conviction of certain sex offenses, as defined. The bill would provide that the commission of, and conviction for, any act of sexual abuse, misconduct, or attempted sexual misconduct, whether or not with a patient, or conviction of a felony requiring registration as a sex offender, be considered a crime substantially related to the qualifications, functions, or duties of a healing arts licensee. The bill would impose requirements on boards with respect to individuals required to register as a sex offender.~~

~~This bill would authorize the Attorney General and his or her investigative agents and certain healing arts boards to inquire into any alleged violation of the laws under the boards' jurisdiction and to inspect documents subject to specified procedures. The bill would make the licensees of those healing arts boards or a health care facility that fails to comply with a patient's medical record request, as specified, within 15 days, or who fails or refuses to comply with a court order mandating release of records, subject to civil and criminal penalties, as specified. By creating a new crime, the bill would impose a state-mandated local program.~~

The bill would require the employer of certain health care licensees to report to the appropriate board within a specified timeframe information relating to a health care licensee who is suspended or terminated for cause or who resigns. The bill would require a board to investigate these reports, including the inspection and copying of certain documents relating to that suspension, termination, or resignation.

The bill would require specified healing arts boards, on or after July 1, ~~2013~~ 2014, to post on their Internet Web sites specified information in their possession, custody, or control regarding their licensees and their license status, prior discipline, and convictions.

The bill would authorize ~~a certain~~ healing arts ~~board~~ boards to automatically suspend the license of any licensee who also has an

out-of-state license or a license issued by an agency of the federal government that is suspended or revoked, except as specified.

(4) The bill would declare the intent of the Legislature that the Bureau of State Audits conduct a specified review of the ~~Pharmacists Recovery Program by January 1, 2013~~ *diversion programs administered by the Dental Board of California, the Osteopathic Medical Board of California, the Physical Therapy Board of California, the Board of Registered Nursing, the Physician Assistant Committee, and the Veterinary Medical Board of California by January 1, 2014.*

(5) Existing law establishes in the Department of Justice the Health Quality Enforcement Section, whose primary responsibility is to investigate and prosecute proceedings against licensees and applicants within the jurisdiction of the Medical Board of California and any committee of the board, the California Board of Podiatric Medicine, and the Board of Psychology.

This bill would authorize a healing arts board to utilize the services of the Health Quality Enforcement Section or licensing section. If utilized, the bill would require the Attorney General to assign attorneys employed by the office of the Attorney General to work on location at the licensing unit of the Division of Investigation of the Department of Consumer Affairs, as specified.

(6) The bill would delete, revise and recast various provisions of the Physical Therapy Practice Act and would make other conforming changes.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Consumer Health Protection Enforcement Act.

SEC. 2. (a) The Legislature finds and declares the following:

(1) In recent years, it has been reported that many of the healing arts boards within the Department of Consumer Affairs take, on average, more than three years to investigate and prosecute violations of law, a timeframe that does not adequately protect consumers.

(2) The excessive amount of time that it takes healing arts boards to investigate and prosecute licensed professionals who have violated the law has been caused, in part, by legal and procedural impediments to the enforcement programs.

(3) Both consumers and licensees have an interest in the quick resolution of complaints and disciplinary actions. Consumers need prompt action against licensees who do not comply with professional standards, and licensees have an interest in timely review of consumer complaints to keep the trust of their patients.

(b) It is the intent of the Legislature that the changes made by this act will improve efficiency and increase accountability within the healing arts boards of the Department of Consumer Affairs, and will remain consistent with the long-held paramount goal of consumer protection.

(c) It is further the intent of the Legislature that the changes made by this act will provide healing arts boards within the Department of Consumer Affairs with the regulatory tools and authorities necessary to reduce the average timeframe for investigating and prosecuting violations of law by healing arts practitioners to between 12 and 18 months.

~~SEC. 3. Section 40 is added to the Business and Professions Code, to read:~~

~~40. (a) Notwithstanding any other provision of law, for purposes of a board investigation, a state agency shall, upon receiving a request in writing from a board for records about a particular licensee, immediately provide to the board all records about a licensee in the custody of the state agency, including, but not limited to, confidential records, medical records, and records related to closed or open investigations.~~

~~(b) If a state agency has knowledge that a person it is investigating is licensed by a board, the state agency shall notify the board that it is conducting an investigation against one of its licensees. The notification of investigation to the board shall include the name, address, and, if known, the professional license~~

1 type and license number of the person being investigated and the
2 name and address or telephone number of a person who can be
3 contacted for further information about the investigation. The state
4 agency shall cooperate with the board in providing any requested
5 information.

6 (e) ~~A board shall maintain the confidentiality of any personally~~
7 ~~identifying information contained in the records maintained~~
8 ~~pursuant to this section, and shall not share, sell, or transfer the~~
9 ~~information to any third party unless it is otherwise authorized by~~
10 ~~federal or state law.~~

11 SEC. 4. ~~Section 42 is added to the Business and Professions~~
12 ~~Code, to read:~~

13 ~~42. Notwithstanding any other provision of law, all local and~~
14 ~~state law enforcement agencies, state and local governments, state~~
15 ~~agencies, licensed health care facilities, and employers of a licensee~~
16 ~~of a board shall provide records to the board upon request prior to~~
17 ~~receiving payment from the board for the cost of providing the~~
18 ~~records. These records include, but are not limited to, confidential~~
19 ~~records, medical records, and records related to closed or open~~
20 ~~investigations.~~

21 ~~SEC. 5.~~

22 SEC. 3. Section 44 is added to the Business and Professions
23 Code, to read:

24 44. (a) A licensee of a board shall not include or permit to be
25 included any of the following provisions in an agreement to settle
26 a civil litigation action filed by a consumer arising from the
27 licensee's practice, whether the agreement is made before or after
28 the filing of an action:

29 (1) A provision that prohibits another party to the dispute from
30 contacting or cooperating with the board.

31 (2) A provision that prohibits another party to the dispute from
32 filing a complaint with the board.

33 (3) A provision that requires another party to the dispute to
34 withdraw a complaint he or she has filed with the board.

35 (b) A provision described in subdivision (a) is void as against
36 public policy.

37 (c) A violation of this section constitutes unprofessional conduct
38 and may subject the licensee to disciplinary action.

39 (d) If a board complies with Section 2220.7, that board shall
40 not be subject to the requirements of this section.

1 ~~SEC. 6.~~

2 *SEC. 4.* Section 116 of the Business and Professions Code is
3 amended to read:

4 116. (a) The director or his or her designee may audit and
5 review, upon his or her own initiative, or upon the request of a
6 consumer or licensee, inquiries and complaints regarding licensees,
7 dismissals of disciplinary cases, the opening, conduct, or closure
8 of investigations, informal conferences, and discipline short of
9 formal accusation by any of the healing arts boards described in
10 Division 2 (commencing with Section 500). The director may
11 make recommendations for changes to the disciplinary system to
12 the appropriate board, the Legislature, or both, for their
13 consideration.

14 (b) The director shall report to the Chairpersons of the Senate
15 Committee on Business, Professions and Economic Development
16 and the Assembly Committee on Health annually regarding his or
17 her findings from any audit, review, or monitoring and evaluation
18 conducted pursuant to this section.

19 ~~SEC. 7.~~

20 *SEC. 5.* Section 155 of the Business and Professions Code is
21 amended to read:

22 155. (a) In accordance with Section 159.5, the director may
23 employ such investigators, inspectors, and deputies as are necessary
24 to properly investigate and prosecute all violations of any law, the
25 enforcement of which is charged to the department or to any board,
26 agency, or commission in the department.

27 (b) It is the intent of the Legislature that inspectors used by
28 boards, bureaus, or commissions in the department shall not be
29 required to be employees of the Division of Investigation, but may
30 either be employees of, or under contract to, the boards, bureaus,
31 or commissions. Contracts for services shall be consistent with
32 Article 4.5 (commencing with Section 19130) of Chapter 6 of Part
33 2 of Division 5 of Title 2 of the Government Code. All civil service
34 employees currently employed as inspectors whose functions are
35 transferred as a result of this section shall retain their positions,
36 status, and rights in accordance with Section 19994.10 of the
37 Government Code and the State Civil Service Act (Part 2
38 (commencing with Section 18500) of Division 5 of Title 2 of the
39 Government Code).

(c) Investigators used by any healing arts board, as described in Division 2 (commencing with Section 500), shall not be required to be employees of the Division of Investigation and a healing arts board may contract for investigative services provided by the Department of Justice.

(d) Nothing in this section limits the authority of, or prohibits, investigators in the Division of Investigation in the conduct of inspections or investigations of any licensee, or in the conduct of investigations of any officer or employee of a board or the department at the specific request of the director or his or her designee.

~~SEC. 8.~~

SEC. 6. Section 159.5 of the Business and Professions Code is amended to read:

159.5. There is in the department the Division of Investigation. The division is in the charge of a person with the title of chief of the division. There is in the division the Health Quality Enforcement Unit. The primary responsibility of the unit is to investigate complaints against licensees and applicants within the jurisdiction of the healing arts boards described in Section 720.

Except as provided in Section 16 of Chapter 1394 of the Statutes of 1970, all positions for the personnel necessary to provide investigative services, as specified in Section 160 of this code and in subdivision (b) of Section 830.3 of the Penal Code, shall be in the division and the personnel shall be appointed by the director.

~~SEC. 9.~~

SEC. 7. Section 505 is added to the Business and Professions Code, to read:

505. (a) Each healing arts board shall report annually to the department and the Legislature, not later than October 1 of each year, the following information:

(1) The total number of complaints closed or resolved without discipline, prior to accusation.

(2) The total number of complaints and reports referred for formal investigation.

(3) The total number of accusations filed and the final disposition of accusations through the board and court review, respectively.

1 (4) The total number of citations issued, with fines and without
2 fines, and the number of public letters of reprimand, letters of
3 admonishment, or other similar action issued, if applicable.

4 (5) The total number of final licensee disciplinary actions taken,
5 by category.

6 (6) The total number of cases in process for more than 6 months,
7 more than 12 months, more than 18 months, and more than 24
8 months, from receipt of a complaint by the board.

9 (7) The average time in processing complaints, from original
10 receipt of the complaint by the board, for all cases, at each stage
11 of the disciplinary process and court review, respectively.

12 (8) The total number of licensees in diversion or on probation
13 for alcohol or drug abuse, and the number of licensees successfully
14 completing diversion programs or probation, and failing to do so,
15 respectively.

16 (9) The total number of probation violation reports and probation
17 revocation filings, and their dispositions.

18 (10) The total number of petitions for reinstatement, and their
19 dispositions.

20 (b) "Action," for purposes of this section, includes proceedings
21 brought by, or on behalf of, the healing arts board against licensees
22 for unprofessional conduct that have not been finally adjudicated,
23 as well as disciplinary actions taken against licensees.

24 (c) A board that complies with Section 2313 shall not be subject
25 to the requirements of this section.

26 (d) A report to be submitted pursuant to this section shall be
27 submitted in compliance with Section 9795 of the Government
28 Code.

29 (e) This section shall become inoperative on October 1, 2016.

30 ~~SEC. 10.~~

31 *SEC. 8.* Section 726 of the Business and Professions Code is
32 amended to read:

33 726. (a) The commission of any act of sexual abuse,
34 misconduct, or relations with a patient, client, or customer
35 constitutes unprofessional conduct and grounds for disciplinary
36 action for any person licensed under this division and under any
37 initiative act referred to in this division.

38 (b) For purposes of Division 1.5 (commencing with Section
39 475), the commission of, and conviction for, any act of sexual
40 abuse, sexual misconduct, or attempted sexual misconduct, whether

1 or not with a patient, or conviction of a felony requiring registration
2 pursuant to Section 290 of the Penal Code, shall be considered a
3 crime substantially related to the qualifications, functions, or duties
4 of a licensee of a healing arts board described in this division.

5 (c) This section shall not apply to sexual contact between a
6 licensee and his or her spouse or person in an equivalent domestic
7 relationship when that licensee provides medical treatment, other
8 than psychotherapeutic treatment, to his or her spouse or person
9 in an equivalent domestic relationship.

10 ~~SEC. 11.~~

11 *SEC. 9.* Section 734 is added to the Business and Professions
12 Code, to read:

13 734. (a) The conviction of a charge of violating any federal
14 statute or regulation or any statute or regulation of this state
15 regulating dangerous drugs or controlled substances constitutes
16 unprofessional conduct. The record of the conviction is conclusive
17 evidence of the unprofessional conduct. A plea or verdict of guilty
18 or a conviction following a plea of nolo contendere is deemed to
19 be a conviction within the meaning of this section.

20 (b) Discipline may be ordered against a licensee in accordance
21 with the laws and regulations of the healing arts board or the board
22 may order the denial of the license when the time for appeal has
23 elapsed, or the judgment of conviction has been affirmed on appeal,
24 or when an order granting probation is made suspending the
25 imposition of sentence, irrespective of a subsequent order under
26 the provisions of Section 1203.4 of the Penal Code allowing that
27 person to withdraw his or her plea of guilty and to enter a plea of
28 not guilty, or setting aside the verdict of guilty, or dismissing the
29 accusation, complaint, information, or indictment.

30 ~~SEC. 12.~~

31 *SEC. 10.* Section 735 is added to the Business and Professions
32 Code, to read:

33 735. A violation of any federal statute or federal regulation or
34 any of the statutes or regulations of this state regulating dangerous
35 drugs or controlled substances constitutes unprofessional conduct.

36 ~~SEC. 13.~~ Section 736 is added to the Business and Professions
37 Code, to read:

38 ~~736. (a) The use or prescribing for or administering to himself~~
39 ~~or herself of any controlled substance; or the use of any of the~~
40 ~~dangerous drugs specified in Section 4022, or of alcoholic~~

1 beverages, to the extent or in such a manner as to be dangerous or
2 injurious to the licensee, or to any other person or to the public;
3 or to the extent that the use impairs the ability of the licensee to
4 practice safely; or conviction of any misdemeanor or felony
5 involving the use, consumption, or self-administration of any of
6 the substances referred to in this section, or conviction of any
7 combination thereof, constitutes unprofessional conduct. The record
8 of the conviction is conclusive evidence of the unprofessional
9 conduct.

10 (b) A plea or verdict of guilty or a conviction following a plea
11 of nolo contendere is deemed to be a conviction within the meaning
12 of this section. Discipline may be ordered against a licensee in
13 accordance with the laws and regulations of the healing arts board
14 or the board may order the denial of the license when the time for
15 appeal has elapsed or the judgment of conviction has been affirmed
16 on appeal or when an order granting probation is made suspending
17 imposition of sentence, irrespective of a subsequent order under
18 the provisions of Section 1203.4 of the Penal Code allowing that
19 person to withdraw his or her plea of guilty and to enter a plea of
20 not guilty, or setting aside the verdict of guilty, or dismissing the
21 accusation, complaint, information, or indictment.

22 (c) A violation of subdivision (a) is a misdemeanor, and upon
23 conviction shall be punished by a fine of up to ten thousand dollars
24 (\$10,000), or by imprisonment in the county jail of up to six
25 months, or by both that fine and imprisonment.

26 ~~SEC. 14.~~

27 *SEC. 11.* Section 737 is added to the Business and Professions
28 Code, to read:

29 737. It shall be unprofessional conduct for any licensee of a
30 healing arts board to fail to comply with the following:

31 (a) Furnish information in a timely manner to the healing arts
32 board or the board's investigators or representatives if requested
33 by the board.

34 (b) Cooperate and participate in any investigation or other
35 regulatory or disciplinary proceeding pending against the licensee.
36 However, this subdivision shall not be construed to deprive a
37 licensee of any privilege guaranteed by the Fifth Amendment to
38 the Constitution of the United States, or any other constitutional
39 or statutory privileges. This subdivision shall not be construed to
40 require a licensee to cooperate with a request that requires him or

1 her to waive any constitutional or statutory privilege or to comply
2 with a request for information or other matters within an
3 unreasonable period of time in light of the time constraints of the
4 licensee's practice. Any exercise by a licensee of any constitutional
5 or statutory privilege shall not be used against the licensee in a
6 regulatory or disciplinary proceeding against the licensee.

7 ~~SEC. 15. Section 802.1 of the Business and Professions Code~~
8 ~~is amended to read:~~

9 ~~802.1. (a) (1) A licensee of a healing arts board described in~~
10 ~~this division shall report any of the following to the entity that~~
11 ~~issued his or her license:~~

12 ~~(A) The bringing of an indictment or information charging a~~
13 ~~felony against the licensee.~~

14 ~~(B) The conviction of the licensee, including any verdict of~~
15 ~~guilty, or plea of guilty or no contest, of any felony or~~
16 ~~misdemeanor.~~

17 ~~(C) Any disciplinary action taken by another licensing entity~~
18 ~~or authority of this state or of another state or an agency of the~~
19 ~~federal government.~~

20 ~~(2) The report required by this subdivision shall be made in~~
21 ~~writing within 30 days of the date of the bringing of the indictment~~
22 ~~or the charging of a felony, or of the arrest, conviction, or~~
23 ~~disciplinary action.~~

24 ~~(b) Failure to make a report required by this section shall be a~~
25 ~~public offense punishable by a fine not to exceed five thousand~~
26 ~~dollars (\$5,000) and shall constitute unprofessional conduct.~~

27 ~~SEC. 16.~~

28 ~~SEC. 12. Section 803 of the Business and Professions Code is~~
29 ~~amended to read:~~

30 ~~803. (a) Except as provided in subdivision (b), within 10 days~~
31 ~~after a judgment by a court of this state that a person who holds a~~
32 ~~license, certificate, or other similar authority from a healing arts~~
33 ~~board described in this division, has committed a crime, or is liable~~
34 ~~for any death or personal injury resulting in a judgment for an~~
35 ~~amount in excess of thirty thousand dollars (\$30,000) caused by~~
36 ~~his or her negligence, error or omission in practice, or his or her~~
37 ~~rendering unauthorized professional services, the clerk of the court~~
38 ~~that rendered the judgment shall report that fact to the agency that~~
39 ~~issued the license, certificate, or other similar authority.~~

(b) For purposes of a physician and surgeon, osteopathic physician and surgeon, or doctor of podiatric medicine, who is liable for any death or personal injury resulting in a judgment of any amount caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the board that issued the license.

~~SEC. 17.~~

SEC. 13. Section 803.5 of the Business and Professions Code is amended to read:

803.5. (a) The district attorney, city attorney, or other prosecuting agency shall notify the appropriate healing arts board described in this division and the clerk of the court in which the charges have been filed, of any filings against a licensee of that board charging a felony immediately upon obtaining information that the defendant is a licensee of the board. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license from one of the boards described above.

(b) The clerk of the court in which a licensee of one of the boards is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the applicable board.

~~SEC. 18.~~

SEC. 14. Section 803.6 of the Business and Professions Code is amended to read:

803.6. (a) The clerk of the court shall transmit any felony preliminary hearing transcript concerning a defendant licensee to the appropriate healing arts board described in this division where the total length of the transcript is under 800 pages and shall notify the appropriate board of any proceeding where the transcript exceeds that length.

(b) In any case where a probation report on a licensee is prepared for a court pursuant to Section 1203 of the Penal Code, a copy of that report shall be transmitted by the probation officer to the appropriate healing arts board.

1 ~~SEC. 19.~~

2 ~~SEC. 15.~~ Section 803.7 is added to the Business and Professions
3 Code, to read:

4 803.7. The Department of Justice shall ensure that subsequent
5 reports and subsequent disposition information authorized to be
6 issued to any board identified in Section 101 are submitted to that
7 board within 30 days from notification of subsequent arrests,
8 convictions, or other updates.

9 ~~SEC. 20.~~

10 ~~SEC. 16.~~ Section 803.8 is added to the Business and Professions
11 Code, to read:

12 803.8. (a) The office of the Attorney General shall serve, or
13 submit to a healing arts board for service, an accusation within 60
14 calendar days of receipt from the healing arts board.

15 (b) The office of the Attorney General shall serve, or submit to
16 a healing arts board for service, a default decision within five days
17 following the time period allowed for the filing of a notice of
18 defense.

19 (c) The office of the Attorney General shall set a hearing date
20 within three days of receiving a notice of defense, unless the
21 healing arts board gives the office of the Attorney General
22 instruction otherwise.

23 ~~SEC. 21.~~ Section 822 of the Business and Professions Code is
24 amended to read:

25 ~~822.~~ If a licensing agency determines that its licentiate's ability
26 to practice his or her profession safely is impaired because the
27 licentiate is mentally ill, or physically ill affecting competency,
28 the licensing agency may take action by any one of the following
29 methods:

30 ~~(a) Revoking the licentiate's certificate or license.~~

31 ~~(b) Suspending the licentiate's right to practice.~~

32 ~~(c) Placing the licentiate on probation.~~

33 ~~(d) Taking such other action in relation to the licentiate as the~~
34 ~~licensing agency in its discretion deems proper, including issuing~~
35 ~~a limited or restricted license.~~

36 The licensing agency shall not reinstate a revoked or suspended
37 certificate or license or lift any restrictions or limitations until it
38 has received competent evidence of the absence or control of the
39 condition which caused its action and until it is satisfied that with

1 ~~due regard for the public health and safety the person's right to~~
2 ~~practice his or her profession may be safely reinstated.~~

3 ~~SEC. 22.~~

4 *SEC. 17.* Section 857 is added to the Business and Professions
5 Code, to read:

6 857. (a) Each healing arts board, the State Board of
7 Chiropractic Examiners, and the Osteopathic Medical Board of
8 California shall query the federal National Practitioner Data Bank
9 prior to any of the following:

10 (1) Granting a license to an applicant who is currently residing
11 in another state.

12 (2) Granting a license to an applicant who is currently or has
13 ever been licensed as a health care practitioner in California or
14 another state.

15 (3) Granting a petition for reinstatement of a revoked or
16 surrendered license.

17 (b) Notwithstanding subdivision (a), a healing arts board, the
18 State Board of Chiropractic Examiners, and the Osteopathic
19 Medical Board of California may query the federal National
20 Practitioner Data Bank prior to issuing any license.

21 (c) A healing arts board shall charge a fee to cover the actual
22 cost to conduct the queries described in this section.

23 ~~SEC. 23. Article 16 (commencing with Section 880) is added~~
24 ~~to Chapter 1 of Division 2 of the Business and Professions Code,~~
25 ~~to read:~~

26
27 **Article 16. Unlicensed Practice**
28

29 880. (a) (1) ~~It is a public offense, punishable by a fine not to~~
30 ~~exceed one hundred thousand dollars (\$100,000), by imprisonment~~
31 ~~in a county jail not to exceed one year, or by both that fine and~~
32 ~~imprisonment, for:~~

33 ~~(A) Any person who does not hold a current and valid license~~
34 ~~to practice a healing art under this division to engage in that~~
35 ~~practice.~~

36 ~~(B) Any person who fraudulently buys, sells, or obtains a license~~
37 ~~to practice any healing art in this division or to violate any~~
38 ~~provision of this division.~~

39 ~~(2) Subparagraph (A) of paragraph (1) shall not apply to any~~
40 ~~person who is already being charged with a crime under the specific~~

1 ~~healing arts licensing provisions for which he or she engaged in~~
2 ~~unauthorized practice.~~

3 ~~(b) Notwithstanding any other provision of law, any person who~~
4 ~~is licensed under this division, and who supervises the practice of~~
5 ~~a healing art by any person who does not hold a current and valid~~
6 ~~license to practice that healing art under this division, is guilty of~~
7 ~~a public crime, punishable by a fine not to exceed one hundred~~
8 ~~thousand dollars (\$100,000), by imprisonment in a county jail not~~
9 ~~to exceed one year, or by both that fine and imprisonment.~~

10 ~~SEC. 24.~~

11 *SEC. 18.* Section 1688 is added to the Business and Professions
12 Code, to read:

13 1688. (a) The board may delegate to its executive officer the
14 authority to adopt a proposed default decision where an
15 administrative action to revoke a license has been filed and the
16 licensee has failed to file a notice of defense or to appear at the
17 hearing and a proposed default decision revoking the license has
18 been issued.

19 (b) The board may delegate to its executive officer the authority
20 to adopt a proposed settlement agreement where an administrative
21 action to revoke a license has been filed by the board and the
22 licensee has agreed to the revocation or surrender of his or her
23 license.

24 (c) The executive officer shall, at scheduled board meetings,
25 report to the board the number of proposed default decisions or
26 proposed settlement agreements adopted pursuant to this section.

27 ~~SEC. 25.~~

28 *SEC. 19.* Section 1688.1 is added to the Business and
29 Professions Code, to read:

30 1688.1. (a) Notwithstanding Section 11415.60 of the
31 Government Code, the board may enter into a settlement with a
32 licensee or applicant in lieu of the issuance of an accusation or
33 statement of issues against that licensee or applicant, as applicable.

34 (b) The settlement shall include language identifying the factual
35 basis for the action being taken and a list of the statutes or
36 regulations violated.

37 (c) A person who enters *into* a settlement pursuant to this section
38 is not precluded from filing a petition, in the timeframe permitted
39 by law, to modify the terms of the settlement or petition for early
40 termination of probation, if probation is part of the settlement.

1 (d) Any settlement against a licensee executed pursuant to this
2 section shall be considered discipline and a public record and shall
3 be posted on the applicable board's Internet Web site. Any
4 settlement against an applicant executed pursuant to this section
5 shall be considered a public record and shall be posted on the
6 applicable board's Internet Web site.

7 (e) The executive officer shall, at scheduled board meetings,
8 report to the board the number of proposed settlement agreements
9 adopted pursuant to this section.

10 ~~SEC. 26.~~

11 *SEC. 20.* Section 1688.2 is added to the Business and
12 Professions Code, to read:

13 1688.2. (a) The license of a licensee shall be suspended
14 automatically during any time that the licensee is incarcerated after
15 conviction of a felony, regardless of whether the conviction has
16 been appealed. The board shall, immediately upon receipt of the
17 certified copy of the record of conviction, determine whether the
18 license of the licensee has been automatically suspended by virtue
19 of his or her incarceration, and if so, the duration of that
20 suspension. The board shall notify the licensee in writing of the
21 license suspension and of his or her right to elect to have the issue
22 of penalty heard as provided in subdivision (d).

23 (b) Upon receipt of the certified copy of the record of conviction,
24 if after a hearing before an administrative law judge from the Office
25 of Administrative Hearings it is determined that the felony for
26 which the licensee was convicted was substantially related to the
27 qualifications, functions, or duties of a licensee, the board shall
28 suspend the license until the time for appeal has elapsed, if no
29 appeal has been taken, or until the judgment of conviction has been
30 affirmed on appeal or has otherwise become final, and until further
31 order of the board.

32 (c) Notwithstanding subdivision (b), a conviction of a charge
33 of violating any federal statute or regulation or any statute or
34 regulation of this state, regulating dangerous drugs or controlled
35 substances, or a conviction of Section 187, 261, 262, or 288 of the
36 Penal Code, shall be conclusively presumed to be substantially
37 related to the qualifications, functions, or duties of a licensee and
38 no hearing shall be held on this issue. However, upon its own
39 motion or for good cause shown, the board may decline to impose
40 or may set aside the suspension when it appears to be in the interest

1 of justice to do so, with due regard to maintaining the integrity of,
2 and confidence in, the practice regulated by the board.

3 (d) (1) Discipline may be ordered against a licensee in
4 accordance with the statutes and regulations of the board when the
5 time for appeal has elapsed, the judgment of conviction has been
6 affirmed on appeal, or an order granting probation is made
7 suspending the imposition of sentence, irrespective of a subsequent
8 order under Section 1203.4 of the Penal Code allowing the person
9 to withdraw his or her plea of guilty and to enter a plea of not
10 guilty, setting aside the verdict of guilty, or dismissing the
11 accusation, complaint, information, or indictment.

12 (2) The issue of penalty shall be heard by an administrative law
13 judge from the Office of Administrative Hearings. The hearing
14 shall not be ~~had~~ held until the judgment of conviction has become
15 final or, irrespective of a subsequent order under Section 1203.4
16 of the Penal Code, an order granting probation has been made
17 suspending the imposition of sentence; except that a licensee may,
18 at his or her option, elect to have the issue of penalty decided before
19 those time periods have elapsed. Where the licensee so elects, the
20 issue of penalty shall be heard in the manner described in
21 subdivision (b) at the hearing to determine whether the conviction
22 was substantially related to the qualifications, functions, or duties
23 of a licensee. If the conviction of a licensee who has made this
24 election is overturned on appeal, any discipline ordered pursuant
25 to this section shall automatically cease. Nothing in this subdivision
26 shall prohibit the board from pursuing disciplinary action based
27 on any cause other than the overturned conviction.

28 (e) The record of the proceedings resulting in a conviction,
29 including a transcript of the testimony in those proceedings, may
30 be received in evidence.

31 (f) Any other provision of law setting forth a procedure for the
32 suspension or revocation of a license issued by the board shall not
33 apply to proceedings conducted pursuant to this section.

34 ~~SEC. 27.~~

35 *SEC. 21.* Section 1688.3 is added to the Business and
36 Professions Code, to read:

37 1688.3. (a) Except as otherwise provided, any proposed
38 decision or decision issued in accordance with the procedures set
39 forth in Chapter 5 (commencing with Section 11500) of Part 1 of
40 Division 3 of Title 2 of the Government Code, that contains any

1 finding of fact that the licensee engaged in any act of sexual contact
2 with a patient, as defined in subdivision (c) of Section 729, or any
3 finding that the licensee has committed a sex offense, shall contain
4 an order revoking the license. The proposed decision shall not
5 contain any order staying the revocation of the licensee.

6 (b) As used in this section, the term ~~sex offense~~ “*sex offense*”
7 shall mean any of the following:

8 (1) Any offense for which registration is required by Section
9 290 of the Penal Code or a finding that a person committed such
10 an act.

11 (2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1,~~
12 ~~or 647(a) or (d) of the Penal Code~~ *subdivisions (a) to (d), inclusive,*
13 *of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d)*
14 *of Section 647 of the Penal Code*, or a finding that a person
15 committed such an act.

16 (3) Any attempt to commit any of the offenses specified in this
17 section.

18 (4) Any offense committed or attempted in any other state or
19 against the laws of the United States which, if committed or
20 attempted in this state, would have been punishable as one or more
21 of the offenses specified in this section.

22 ~~SEC. 28. Section 1688.4 is added to the Business and~~
23 ~~Professions Code, to read:~~

24 ~~1688.4. (a) Except as otherwise provided, with regard to an~~
25 ~~individual who is required to register as a sex offender pursuant~~
26 ~~to Section 290 of the Penal Code, or the equivalent in another state~~
27 ~~or territory, under military law, or under federal law, the board~~
28 ~~shall be subject to the following requirements:~~

29 ~~(1) The board shall deny an application by the individual for~~
30 ~~licensure in accordance with the procedures set forth in Chapter~~
31 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
32 ~~Title 2 of the Government Code.~~

33 ~~(2) If the individual is licensed under this chapter, the board~~
34 ~~shall promptly revoke the license of the individual in accordance~~
35 ~~with the procedures set forth in Chapter 5 (commencing with~~
36 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
37 ~~Code. The board shall not stay the revocation and place the license~~
38 ~~on probation.~~

~~(3) The board shall not reinstate or reissue the individual's license. The board shall not issue a stay of license denial nor place the license on probation.~~

~~(b) This section shall not apply to any of the following:~~

~~(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender.~~

~~(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under Section 314 of the Penal Code.~~

~~(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2008. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.~~

~~SEC. 29.~~

~~SEC. 22.~~ Section 1688.5 is added to the Business and Professions Code, to read:

~~1688.5. Unless otherwise provided, on or after July 1, 2013 2014, the board shall post on its Internet Web site the following information, including the name and license number, in its possession, custody, or control regarding every licensee for which whom the board licenses:~~

~~(a) With regard to the status of every license, whether or not the licensee or former licensee is in good standing, subject to a temporary restraining order, subject to an interim suspension order, subject to a restriction or cease practice ordered pursuant to Section 23 of the Penal Code, or subject to any of the enforcement actions described in Section 803.1.~~

~~(b) With regard to prior discipline of a licensee, whether or not the licensee or former licensee has been subject to discipline by~~

1 the board or by the board of another state or jurisdiction, as
2 described in Section 803.1.

3 (c) Any felony conviction of a licensee reported to the board.

4 (d) All current accusations filed by the Attorney General,
5 including those accusations that are on appeal. For purposes of
6 this paragraph, “current accusation” means an accusation that has
7 not been dismissed, withdrawn, or settled, and has not been finally
8 decided upon by an administrative law judge and the board unless
9 an appeal of that decision is pending.

10 (e) Any malpractice judgment or arbitration award imposed
11 against a licensee and reported to the board.

12 (f) Any hospital disciplinary action imposed against a licensee
13 that resulted in the termination or revocation of a licensee’s hospital
14 staff privileges for a medical disciplinary cause or reason pursuant
15 to Section 805.

16 (g) Any misdemeanor conviction of a licensee that results in a
17 disciplinary action or an accusation that is not subsequently
18 withdrawn or dismissed.

19 (h) Appropriate disclaimers and explanatory statements to
20 accompany the above information, including an explanation of
21 what types of information are not disclosed. These disclaimers and
22 statements shall be developed by the board and shall be adopted
23 by regulation.

24 (i) The information provided on the Internet shall be in
25 accordance with the California Public Records Act (Chapter 3.5
26 (commencing with Section 6250) of Division 7 of Title 1 of the
27 Government Code) and the Information Practices Act of 1977
28 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
29 4 of Division 3 of the Civil Code) and shall comply with the
30 Department of Consumer Affairs Guidelines for Access to Public
31 Records.

32 (j) Information provided on the Internet may not include
33 personal information, unless otherwise provided pursuant to this
34 chapter, including the home telephone number, date of birth, or
35 social security number. The information may not include the
36 licensee’s address, but may include the city and county of the
37 licensee’s address of record.

38 ~~SEC. 30.~~

39 *SEC. 23.* Section 1688.6 is added to the Business and
40 Professions Code, to read:

1 1688.6. (a) Unless otherwise provided, if a licensee possesses
2 a license or is otherwise authorized to practice in any state other
3 than California or by any agency of the federal government and
4 that license or authority is suspended or revoked outright, the
5 California license of the licensee shall be suspended automatically
6 for the duration of the suspension or revocation, unless terminated
7 or rescinded as provided in subdivision (c). The board shall notify
8 the licensee of the license suspension and of his or her right to
9 have the issue of penalty heard as provided in this section.

10 (b) Upon its own motion or for good cause shown, the board
11 may decline to impose or may set aside the suspension when it
12 appears to be in the interest of justice to do so, with due regard to
13 maintaining the integrity of, and confidence in, the specific healing
14 art.

15 (c) The issue of penalty shall be heard by an administrative law
16 judge sitting alone or with a panel of the board, in the discretion
17 of the board. A licensee may request a hearing on the penalty and
18 that hearing shall be held within 90 days from the date of the
19 request. If the order suspending or revoking the license or authority
20 to practice is overturned on appeal, any discipline ordered pursuant
21 to this section shall automatically cease. Upon a showing to the
22 administrative law judge or panel by the licensee that the
23 out-of-state action is not a basis for discipline in California, the
24 suspension shall be rescinded. If an accusation for permanent
25 discipline is not filed within 90 days of the suspension imposed
26 pursuant to this section, the suspension shall automatically
27 terminate.

28 (d) The record of the proceedings that resulted in the suspension
29 or revocation of the licensee's out-of-state license or authority to
30 practice, including a transcript of the testimony therein, may be
31 received in evidence.

32 (e) This section shall not apply to a licensee who maintains his
33 or her primary practice in California, as evidenced by having
34 maintained a practice in this state for not less than one year
35 immediately preceding the date of suspension or revocation.
36 Nothing in this section shall preclude a licensee's license from
37 being suspended pursuant to any other provision of law.

38 (f) This section shall not apply to a licensee whose license has
39 been surrendered, whose only discipline is a medical staff
40 disciplinary action at a federal hospital and not for medical

1 disciplinary cause or reason as that term is defined in Section 805,
2 or whose revocation or suspension has been stayed, even if the
3 licensee remains subject to terms of probation or other discipline.

4 (g) This section shall not apply to a suspension or revocation
5 imposed by a state that is based solely on the prior discipline of
6 the licensee by another state.

7 (h) The other provisions of this article setting forth a procedure
8 for the suspension or revocation of a licensee's license or certificate
9 shall not apply to summary suspensions issued pursuant to this
10 section. If a summary suspension has been issued pursuant to this
11 section, the licensee may request that the hearing on the penalty
12 conducted pursuant to subdivision (c) be held at the same time as
13 a hearing on the accusation.

14 ~~(i) A board that complies with Section 2310 shall not be subject~~
15 ~~to the requirements of this section.~~

16 *SEC. 24. Section 1695 of the Business and Professions Code*
17 *is amended to read:*

18 1695. (a) It is the intent of the Legislature that the ~~Board of~~
19 ~~Dental-Examiners Board~~ of California seek ways and means to
20 identify and rehabilitate licentiates whose competency may be
21 impaired due to abuse of dangerous drugs or alcohol, so that
22 licentiates so afflicted may be treated and returned to the practice
23 of dentistry in a manner which will not endanger the public health
24 and safety. It is also the intent of the Legislature that the ~~Board of~~
25 ~~Dental-Examiners Dental Board~~ of California shall implement this
26 legislation in part by establishing a diversion program as a
27 voluntary alternative approach to traditional disciplinary actions.

28 (b) *It is the intent of the Legislature, through a request in 2013*
29 *from the Joint Legislative Audit Committee, that the Bureau of*
30 *State Audits conduct a thorough performance audit of the board's*
31 *diversion program to evaluate the effectiveness and efficiency of*
32 *the program, and make recommendations regarding the*
33 *continuation of the program and any changes or reforms required*
34 *to ensure that licensees participating in the program are*
35 *appropriately monitored and that the public is protected from*
36 *licensees who are impaired due to alcohol or drug abuse or mental*
37 *or physical illness. The audit shall be completed by January 1,*
38 *2014. The board and its staff shall cooperate with the audit, and*
39 *the board shall provide data, information, and case files as*
40 *requested by the auditor to perform all of his or her duties. The*

1 *provision of confidential data, information, and case files by the*
2 *board to the auditor shall not constitute a waiver of any exemption*
3 *from disclosure or discovery or of any confidentiality protection*
4 *or privilege otherwise provided by law that is applicable to the*
5 *data, information, or case files.*

6 *(c) It is the intent of the Legislature that the audit shall be paid*
7 *for with funds from the State Dentistry Fund.*

8 *SEC. 25. Section 1707 is added to the Business and Professions*
9 *Code, to read:*

10 *1707. Notwithstanding any other provision of law, it is a public*
11 *offense, punishable by a fine not to exceed one hundred thousand*
12 *dollars (\$100,000), by imprisonment in a county jail not to exceed*
13 *one year, or by both that fine and imprisonment, for:*

14 *(a) Any person who does not hold a current and valid license*
15 *to practice dentistry to engage in that practice.*

16 *(b) Any person to fraudulently buy, sell, or obtain a license to*
17 *practice dentistry or to violate any provision of this chapter.*

18 ~~SEC. 31.~~

19 *SEC. 26. Section 1947.1 is added to the Business and*
20 *Professions Code, to read:*

21 *1947.1. (a) The board may delegate to its executive officer*
22 *the authority to adopt a proposed default decision where an*
23 *administrative action to revoke a license has been filed and the*
24 *licensee has failed to file a notice of defense or to appear at the*
25 *hearing and a proposed default decision revoking the license has*
26 *been issued.*

27 *(b) The board may delegate to its executive officer the authority*
28 *to adopt a proposed settlement agreement where an administrative*
29 *action to revoke a license has been filed by the board and the*
30 *licensee has agreed to the revocation or surrender of his or her*
31 *license.*

32 *(c) The executive officer shall, at scheduled board meetings,*
33 *report to the board the number of proposed default decisions or*
34 *proposed settlement agreements adopted pursuant to this section.*

35 ~~SEC. 32.~~

36 *SEC. 27. Section 1947.2 is added to the Business and*
37 *Professions Code, to read:*

38 *1947.2. (a) Notwithstanding Section 11415.60 of the*
39 *Government Code, the board may enter into a settlement with a*

1 licensee or applicant in lieu of the issuance of an accusation or
2 statement of issues against that licensee or applicant, as applicable.

3 (b) The settlement shall include language identifying the factual
4 basis for the action being taken and a list of the statutes or
5 regulations violated.

6 (c) A person who enters *into* a settlement pursuant to this section
7 is not precluded from filing a petition, in the timeframe permitted
8 by law, to modify the terms of the settlement or petition for early
9 termination of probation, if probation is part of the settlement.

10 (d) Any settlement against a licensee executed pursuant to this
11 section shall be considered discipline and a public record and shall
12 be posted on the applicable board's Internet Web site. Any
13 settlement against an applicant executed pursuant to this section
14 shall be considered a public record and shall be posted on the
15 applicable board's Internet Web site.

16 (e) The executive officer shall, at scheduled board meetings,
17 report to the board the number of proposed settlement agreements
18 adopted pursuant to this section.

19 ~~SEC. 33.~~

20 *SEC. 28.* Section 1947.3 is added to the Business and
21 Professions Code, to read:

22 1947.3. (a) The license of a licensee shall be suspended
23 automatically during any time that the licensee is incarcerated after
24 conviction of a felony, regardless of whether the conviction has
25 been appealed. The board shall, immediately upon receipt of the
26 certified copy of the record of conviction, determine whether the
27 license of the licensee has been automatically suspended by virtue
28 of his or her incarceration, and if so, the duration of that
29 suspension. The board shall notify the licensee in writing of the
30 license suspension and of his or her right to elect to have the issue
31 of penalty heard as provided in subdivision (d).

32 (b) Upon receipt of the certified copy of the record of conviction,
33 if after a hearing before an administrative law judge from the Office
34 of Administrative Hearings it is determined that the felony for
35 which the licensee was convicted was substantially related to the
36 qualifications, functions, or duties of a licensee, the board shall
37 suspend the license until the time for appeal has elapsed, if no
38 appeal has been taken, or until the judgment of conviction has been
39 affirmed on appeal or has otherwise become final, and until further
40 order of the board.

(c) Notwithstanding subdivision (b), a conviction of a charge of violating any federal statute or regulation or any statute or regulation of this state, regulating dangerous drugs or controlled substances, or a conviction of Section 187, 261, 262, or 288 of the Penal Code, shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a licensee and no hearing shall be held on this issue. However, upon its own motion or for good cause shown, the board may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of, and confidence in, the practice regulated by the board.

(d) (1) Discipline may be ordered against a licensee in accordance with the statutes and regulations of the board when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge from the Office of Administrative Hearings. The hearing shall not be ~~had~~ *held* until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence; except that a licensee may, at his or her option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee so elects, the issue of penalty shall be heard in the manner described in subdivision (b) at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of a licensee. If the conviction of a licensee who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Nothing in this subdivision shall prohibit the board from pursuing disciplinary action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in a conviction, including a transcript of the testimony in those proceedings, may be received in evidence.

(f) Any other provision of law setting forth a procedure for the suspension or revocation of a license issued by the board shall not apply to proceedings conducted pursuant to this section.

~~SEC. 34.~~

~~SEC. 29.~~ Section 1947.4 is added to the Business and Professions Code, to read:

1947.4. (a) Except as otherwise provided, any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee engaged in any act of sexual contact with a patient, as defined in subdivision (c) of Section 729, or any finding that the licensee has committed a sex offense, shall contain an order revoking the license. The proposed decision or decision shall not contain any order staying the revocation of the licensee.

(b) As used in this section, the term ~~sex offense~~ “*sex offense*” shall mean any of the following:

(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

(2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1, or 647(a) or (d) of the Penal Code subdivisions (a) to (d), inclusive, of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d) of Section 647 of the Penal Code~~, or a finding that a person committed such act.

(3) Any attempt to commit any of the offenses specified in this section.

(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.

~~SEC. 35.~~ ~~Section 1947.5 is added to the Business and Professions Code, to read:~~

~~1947.5. (a) Except as otherwise provided, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, under military law, or under federal law, the board shall be subject to the following requirements:~~

~~(1) The board shall deny an application by the individual for licensure in accordance with the procedures set forth in Chapter~~

~~5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~(2) If the individual is licensed under this chapter, the board shall promptly revoke the license of the individual in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The board shall not stay the revocation and place the license on probation.~~

~~(3) The board shall not reinstate or reissue the individual's license. The board shall not issue a stay of license denial nor place the license on probation.~~

~~(b) This section shall not apply to any of the following:~~

~~(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender.~~

~~(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under Section 314 of the Penal Code.~~

~~(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2008. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.~~

~~SEC. 36.~~

SEC. 30. Section 1947.6 is added to the Business and Professions Code, to read:

1947.6. (a) Notwithstanding any other provision of law, any employer of a licensee shall report to the board the suspension or termination for cause, or any resignation in lieu of suspension or termination for cause, of any licensee in its employ within 15 business days. The report shall not be made until after the

1 conclusion of the review process specified in Section 52.3 of Title
2 2 of the California Code of Regulations and *Skelly v. State*
3 *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This
4 required reporting shall not constitute a waiver of confidentiality
5 of medical records. The information reported or disclosed shall be
6 kept confidential except as provided in subdivision (c) of Section
7 800 and shall not be subject to discovery in civil cases.

8 (b) The information to be reported by the employer shall include
9 the name and license number of the licensee involved, a
10 description of the facts and circumstances of the suspension or
11 termination for cause, any resignation in lieu of suspension or
12 termination for cause, and any other relevant information deemed
13 appropriate by the employer.

14 (c) The board shall be entitled to inspect and copy the following
15 documents in the record for any suspension or termination for
16 cause, or any resignation in lieu of suspension or termination for
17 cause, resulting in action that is required to be reported pursuant
18 to this section:

19 (1) Any statement for suspension or termination of the licensee.

20 (2) Any document or exhibits relevant to the suspension or
21 termination.

22 (d) If, during the investigation by the board of the cause for the
23 termination or suspension or resignation of the licensee, it is found
24 that there has been a violation of existing state or federal law, the
25 board shall report the violation to the appropriate agency.

26 (e) For purposes of this section, “suspension or termination for
27 cause” or “resignation in lieu of suspension or termination for
28 cause” is defined as resignation, suspension, or termination from
29 employment for any of the following reasons:

30 (1) Use of controlled substances or alcohol to the extent that it
31 impairs the licensee’s ability to safely practice.

32 (2) Unlawful sale of a controlled substance or other prescription
33 items.

34 (3) Patient or client abuse, neglect, physical harm, or sexual
35 contact with a patient or client.

36 (4) Gross negligence or incompetence.

37 (5) Theft from a patient or client, any other employee, or the
38 employer.

39 (f) As used in this section, the following definitions apply:

(1) “Gross negligence” means a substantial departure from the standard of care, which, under similar circumstances, would have ordinarily been exercised by a competent licensee, and which has or could have resulted in harm to the consumer. An exercise of so slight a degree of care as to justify the belief that there was a conscious disregard or indifference for the health, safety, or welfare of the consumer shall be considered a substantial departure from the standard of care.

(2) “Incompetence” means the lack of possession of, and the failure to exercise that degree of learning, skill, care, and experience ordinarily possessed by, a responsible licensee.

(3) “Willful” means a knowing and intentional violation of a known legal duty.

(g) (1) Willful failure of an employer to make a report required by this section is punishable by an administrative fine not to exceed one hundred thousand dollars (\$100,000) per violation.

(2) Any failure of an employer, other than willful failure, to make a report required by this section is punishable by an administrative fine not to exceed fifty thousand dollars (\$50,000).

(h) The board shall investigate the circumstances underlying any report received pursuant to this section within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to this section.

(i) The board shall send to the licentiate a copy of the report along with the reasons for the filing of the report and notice advising the licentiate of his or her right to submit additional statements or other information to the board.

(j) Pursuant to Section 43.8 of the Civil Code, no person shall incur any civil penalty as a result of making any report required by this article.

(k) No report is required under this section where a report of the action taken is already required under Section 805.

~~SEC. 37.~~

SEC. 31. Section 1947.7 is added to the Business and Professions Code, to read:

1947.7. Unless otherwise provided, on or after July 1, ~~2013~~ 2014, the board shall post on its Internet Web site the following information, including the name and license number, in its

1 possession, custody, or control regarding every licensee for which
2 *whom* the board licenses:

3 (a) With regard to the status of every license, whether or not
4 the licensee or former licensee is in good standing, subject to a
5 temporary restraining order, subject to an interim suspension order,
6 subject to a restriction or cease practice ordered pursuant to Section
7 23 of the Penal Code, or subject to any of the enforcement actions
8 described in Section 803.1.

9 (b) With regard to prior discipline of a licensee, whether or not
10 the licensee or former licensee has been subject to discipline by
11 the board or by the board of another state or jurisdiction, as
12 described in Section 803.1.

13 (c) Any felony conviction of a licensee reported to the board.

14 (d) All current accusations filed by the Attorney General,
15 including those accusations that are on appeal. For purposes of
16 this paragraph, “current accusation” means an accusation that has
17 not been dismissed, withdrawn, or settled, and has not been finally
18 decided upon by an administrative law judge and the board unless
19 an appeal of that decision is pending.

20 (e) Any malpractice judgment or arbitration award imposed
21 against a licensee and reported to the board.

22 (f) Any hospital disciplinary action imposed against a licensee
23 that resulted in the termination or revocation of a licensee’s hospital
24 staff privileges for a medical disciplinary cause or reason pursuant
25 to Section 805.

26 (g) Any misdemeanor conviction of a licensee that results in a
27 disciplinary action or an accusation that is not subsequently
28 withdrawn or dismissed.

29 (h) Appropriate disclaimers and explanatory statements to
30 accompany the above information, including an explanation of
31 what types of information are not disclosed. These disclaimers and
32 statements shall be developed by the board and shall be adopted
33 by regulation.

34 (i) The information provided on the Internet shall be in
35 accordance with the California Public Records Act (Chapter 3.5
36 (commencing with Section 6250) of Division 7 of Title 1 of the
37 Government Code) and the Information Practices Act of 1977
38 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
39 4 of Division 3 of the Civil Code) and shall comply with the

1 Department of Consumer Affairs Guidelines for Access to Public
2 Records.

3 (j) Information provided on the Internet may not include
4 personal information, unless otherwise provided pursuant to this
5 chapter, including the home telephone number, date of birth, or
6 social security number. The information may not include the
7 licensee's address, but may include the city and county of the
8 licensee's address of record.

9 ~~SEC. 38.~~

10 *SEC. 32.* Section 1947.8 is added to the Business and
11 Professions Code, to read:

12 1947.8. (a) Unless otherwise provided, if a licensee possesses
13 a license or is otherwise authorized to practice in any state other
14 than California or by any agency of the federal government and
15 that license or authority is suspended or revoked outright, the
16 California license of the licensee shall be suspended automatically
17 for the duration of the suspension or revocation, unless terminated
18 or rescinded as provided in subdivision (c). The board shall notify
19 the licensee of the license suspension and of his or her right to
20 have the issue of penalty heard as provided in this section.

21 (b) Upon its own motion or for good cause shown, the board
22 may decline to impose or may set aside the suspension when it
23 appears to be in the interest of justice to do so, with due regard to
24 maintaining the integrity of, and confidence in, the specific healing
25 art.

26 (c) The issue of penalty shall be heard by an administrative law
27 judge sitting alone or with a panel of the board, in the discretion
28 of the board. A licensee may request a hearing on the penalty and
29 that hearing shall be held within 90 days from the date of the
30 request. If the order suspending or revoking the license or authority
31 to practice is overturned on appeal, any discipline ordered pursuant
32 to this section shall automatically cease. Upon a showing to the
33 administrative law judge or panel by the licensee that the
34 out-of-state action is not a basis for discipline in California, the
35 suspension shall be rescinded. If an accusation for permanent
36 discipline is not filed within 90 days of the suspension imposed
37 pursuant to this section, the suspension shall automatically
38 terminate.

39 (d) The record of the proceedings that resulted in the suspension
40 or revocation of the licensee's out-of-state license or authority to

1 practice, including a transcript of the testimony therein, may be
2 received in evidence.

3 (e) This section shall not apply to a licensee who maintains his
4 or her primary practice in California, as evidenced by having
5 maintained a practice in this state for not less than one year
6 immediately preceding the date of suspension or revocation.
7 Nothing in this section shall preclude a licensee's license from
8 being suspended pursuant to any other provision of law.

9 (f) This section shall not apply to a licensee whose license has
10 been surrendered, whose only discipline is a medical staff
11 disciplinary action at a federal hospital and not for medical
12 disciplinary cause or reason as that term is defined in Section 805,
13 or whose revocation or suspension has been stayed, even if the
14 licensee remains subject to terms of probation or other discipline.

15 (g) This section shall not apply to a suspension or revocation
16 imposed by a state that is based solely on the prior discipline of
17 the licensee by another state.

18 (h) The other provisions of this article setting forth a procedure
19 for the suspension or revocation of a licensee's license or certificate
20 shall not apply to summary suspensions issued pursuant to this
21 section. If a summary suspension has been issued pursuant to this
22 section, the licensee may request that the hearing on the penalty
23 conducted pursuant to subdivision (c) be held at the same time as
24 a hearing on the accusation.

25 ~~(i) A board that complies with Section 2310 shall not be subject~~
26 ~~to the requirements of this section.~~

27 *SEC. 33. Section 1954.5 is added to the Business and*
28 *Professions Code, to read:*

29 *1954.5. Notwithstanding any other provision of law, it is a*
30 *public offense, punishable by a fine not to exceed one hundred*
31 *thousand dollars (\$100,000), by imprisonment in a county jail not*
32 *to exceed one year, or by both that fine and imprisonment, for:*

33 *(a) Any person who does not hold a current and valid license*
34 *to practice dental hygiene to engage in that practice.*

35 *(b) Any person to fraudulently buy, sell, or obtain a license to*
36 *practice dental hygiene or to violate any provision of this chapter.*

37 ~~SEC. 39.~~

38 *SEC. 34. Section 2246 of the Business and Professions Code*
39 *is amended to read:*

2246. (a) Any proposed decision or decision issued under this article that contains any finding of fact that the licensee engaged in any act of sexual exploitation, as described in paragraphs (3) to (5), inclusive, of subdivision (b) of Section 729, with a patient shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge.

(b) Except as otherwise provided, any proposed decision or decision issued under this article in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee has committed a sex offense, shall contain an order revoking the license. The proposed decision or decision shall not contain any order staying the revocation of the licensee.

(c) As used in this section, the term ~~sex offense~~ “sex offense” shall mean any of the following:

(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

(2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1, or 647(a) or (d) of the Penal Code~~ subdivisions (a) to (d), inclusive, of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d) of Section 647 of the Penal Code, or a finding that a person committed such an act.

(3) Any attempt to commit any of the offenses specified in this section.

(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.

SEC. 35. Section 2320 is added to the Business and Professions Code, to read:

2320. Notwithstanding any other provision of law, it is a public offense, punishable by a fine not to exceed one hundred thousand dollars (\$100,000), by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment, for:

(a) Any person who does not hold a current and valid license to practice medicine to engage in that practice.

(b) Any person to fraudulently buy, sell, or obtain a license to practice medicine or to violate any provision of this chapter.

1 *SEC. 36. Section 2360 of the Business and Professions Code*
2 *is amended to read:*

3 2360. (a) It is the intent of the Legislature that the Osteopathic
4 Medical Board of California seek ways and means to identify and
5 rehabilitate osteopathic physicians and surgeons whose competency
6 may be impaired due to abuse of dangerous drugs and alcohol, so
7 that osteopathic physicians and surgeons so afflicted may be treated
8 and returned to the practice of medicine in a manner which will
9 not endanger the public health and safety. It is also the intent of
10 the Legislature that the Osteopathic Medical Board of California
11 shall implement this legislation by establishing a diversion program
12 as a voluntary alternative approach to traditional disciplinary
13 actions.

14 (b) *It is the intent of the Legislature, through a request in 2013*
15 *from the Joint Legislative Audit Committee, that the Bureau of*
16 *State Audits shall conduct a thorough performance audit of the*
17 *board's diversion program to evaluate the effectiveness and*
18 *efficiency of the program, and make recommendations regarding*
19 *the continuation of the program and any changes or reforms*
20 *required to ensure that licensees participating in the program are*
21 *appropriately monitored and that the public is protected from*
22 *licensees who are impaired due to alcohol or drug abuse or mental*
23 *or physical illness. The audit shall be completed by January 1,*
24 *2014. The board and its staff shall cooperate with the audit, and*
25 *the board shall provide data, information, and case files as*
26 *requested by the auditor to perform all of his or her duties. The*
27 *provision of confidential data, information, and case files by the*
28 *board to the auditor shall not constitute a waiver of any exemption*
29 *from disclosure or discovery or of any confidentiality protection*
30 *or privilege otherwise provided by law that is applicable to the*
31 *data, information, or case files.*

32 (c) *It is the intent of the Legislature that the audit be paid for*
33 *with funds from the Osteopathic Medical Board of California*
34 *Contingent Fund.*

35 *SEC. 37. Section 2458.1 is added to the Business and*
36 *Professions Code, to read:*

37 2458.1. *Notwithstanding any other provision of law, it is a*
38 *public offense, punishable by a fine not to exceed one hundred*
39 *thousand dollars (\$100,000), by imprisonment in a county jail not*
40 *to exceed one year, or by both that fine and imprisonment, for:*

1 (a) Any person who does not hold a current and valid license
2 to practice osteopathic medicine to engage in that practice.

3 (b) Any person to fraudulently buy, sell, or obtain a license to
4 practice osteopathic medicine or to violate any provision of this
5 chapter.

6 ~~SEC. 40.~~

7 SEC. 38. Section 2533.5 is added to the Business and
8 Professions Code, to read:

9 2533.5. (a) The board may delegate to its executive officer
10 the authority to adopt a proposed default decision where an
11 administrative action to revoke a license has been filed and the
12 licensee has failed to file a notice of defense or to appear at the
13 hearing and a proposed default decision revoking the license has
14 been issued.

15 (b) The board may delegate to its executive officer the authority
16 to adopt a proposed settlement agreement where an administrative
17 action to revoke a license has been filed by the board and the
18 licensee has agreed to the revocation or surrender of his or her
19 license.

20 (c) The executive officer shall, at scheduled board meetings,
21 report to the board the number of proposed default decisions or
22 proposed settlement agreements adopted pursuant to this section.

23 ~~SEC. 41.~~

24 SEC. 39. Section 2533.6 is added to the Business and
25 Professions Code, to read:

26 2533.6. (a) Notwithstanding Section 11415.60 of the
27 Government Code, the board may enter into a settlement with a
28 licensee or applicant in lieu of the issuance of an accusation or
29 statement of issues against that licensee or applicant, as applicable.

30 (b) The settlement shall include language identifying the factual
31 basis for the action being taken and a list of the statutes or
32 regulations violated.

33 (c) A person who enters *into* a settlement pursuant to this section
34 is not precluded from filing a petition, in the timeframe permitted
35 by law, to modify the terms of the settlement or petition for early
36 termination of probation, if probation is part of the settlement.

37 (d) Any settlement against a licensee executed pursuant to this
38 section shall be considered discipline and a public record and shall
39 be posted on the applicable board's Internet Web site. Any
40 settlement against an applicant executed pursuant to this section

1 shall be considered a public record and shall be posted on the
2 applicable board's Internet Web site.

3 (e) The executive officer shall, at scheduled board meetings,
4 report to the board the number of proposed settlement agreements
5 adopted pursuant to this section.

6 ~~SEC. 42.~~

7 *SEC. 40.* Section 2533.7 is added to the Business and
8 Professions Code, to read:

9 2533.7. (a) The license of a licensee shall be suspended
10 automatically during any time that the licensee is incarcerated after
11 conviction of a felony, regardless of whether the conviction has
12 been appealed. The board shall, immediately upon receipt of the
13 certified copy of the record of conviction, determine whether the
14 license of the licensee has been automatically suspended by virtue
15 of his or her incarceration, and if so, the duration of that
16 suspension. The board shall notify the licensee in writing of the
17 license suspension and of his or her right to elect to have the issue
18 of penalty heard as provided in subdivision (d).

19 (b) Upon receipt of the certified copy of the record of conviction,
20 if after a hearing before an administrative law judge from the Office
21 of Administrative Hearings it is determined that the felony for
22 which the licensee was convicted was substantially related to the
23 qualifications, functions, or duties of a licensee, the board shall
24 suspend the license until the time for appeal has elapsed, if no
25 appeal has been taken, or until the judgment of conviction has been
26 affirmed on appeal or has otherwise become final, and until further
27 order of the board.

28 (c) Notwithstanding subdivision (b), a conviction of a charge
29 of violating any federal statute or regulation or any statute or
30 regulation of this state, regulating dangerous drugs or controlled
31 substances, or a conviction of Section 187, 261, 262, or 288 of the
32 Penal Code, shall be conclusively presumed to be substantially
33 related to the qualifications, functions, or duties of a licensee and
34 no hearing shall be held on this issue. However, upon its own
35 motion or for good cause shown, the board may decline to impose
36 or may set aside the suspension when it appears to be in the interest
37 of justice to do so, with due regard to maintaining the integrity of,
38 and confidence in, the practice regulated by the board.

39 (d) (1) Discipline may be ordered against a licensee in
40 accordance with the statutes and regulations of the board when the

1 time for appeal has elapsed, the judgment of conviction has been
2 affirmed on appeal, or an order granting probation is made
3 suspending the imposition of sentence, irrespective of a subsequent
4 order under Section 1203.4 of the Penal Code allowing the person
5 to withdraw his or her plea of guilty and to enter a plea of not
6 guilty, setting aside the verdict of guilty, or dismissing the
7 accusation, complaint, information, or indictment.

8 (2) The issue of penalty shall be heard by an administrative law
9 judge from the Office of Administrative Hearings. The hearing
10 shall not be ~~had~~ *held* until the judgment of conviction has become
11 final or, irrespective of a subsequent order under Section 1203.4
12 of the Penal Code, an order granting probation has been made
13 suspending the imposition of sentence; except that a licensee may,
14 at his or her option, elect to have the issue of penalty decided before
15 those time periods have elapsed. Where the licensee so elects, the
16 issue of penalty shall be heard in the manner described in
17 subdivision (b) at the hearing to determine whether the conviction
18 was substantially related to the qualifications, functions, or duties
19 of a licensee. If the conviction of a licensee who has made this
20 election is overturned on appeal, any discipline ordered pursuant
21 to this section shall automatically cease. Nothing in this subdivision
22 shall prohibit the board from pursuing disciplinary action based
23 on any cause other than the overturned conviction.

24 (e) The record of the proceedings resulting in a conviction,
25 including a transcript of the testimony in those proceedings, may
26 be received in evidence.

27 (f) Any other provision of law setting forth a procedure for the
28 suspension or revocation of a license issued by the board shall not
29 apply to proceedings conducted pursuant to this section.

30 ~~SEC. 43.~~

31 *SEC. 41.* Section 2533.8 is added to the Business and
32 Professions Code, to read:

33 2533.8. (a) Except as otherwise provided, any proposed
34 decision or decision issued in accordance with the procedures set
35 forth in Chapter 5 (commencing with Section 11500) of Part 1 of
36 Division 3 of Title 2 of the Government Code, that contains any
37 finding of fact that the licensee engaged in any act of sexual contact
38 with a patient, as defined in subdivision (c) of Section 729, or any
39 finding that the licensee has committed a sex offense, shall contain

1 an order revoking the license. The proposed decision shall not
2 contain any order staying the revocation of the licensee.

3 (b) As used in this section, the term ~~sex offense~~ “*sex offense*”
4 shall mean any of the following:

5 (1) Any offense for which registration is required by Section
6 290 of the Penal Code or a finding that a person committed such
7 an act.

8 (2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1,~~
9 ~~or 647(a) or (d) of the Penal Code subdivisions (a) to (d), inclusive,~~
10 ~~of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d)~~
11 ~~of Section 647 of the Penal Code~~, or a finding that a person
12 committed such act.

13 (3) Any attempt to commit any of the offenses specified in this
14 section.

15 (4) Any offense committed or attempted in any other state or
16 against the laws of the United States which, if committed or
17 attempted in this state, would have been punishable as one or more
18 of the offenses specified in this section.

19 ~~SEC. 44. Section 2533.9 is added to the Business and~~
20 ~~Professions Code, to read:~~

21 ~~2533.9. (a) Except as otherwise provided, with regard to an~~
22 ~~individual who is required to register as a sex offender pursuant~~
23 ~~to Section 290 of the Penal Code, or the equivalent in another state~~
24 ~~or territory, under military law, or under federal law, the board~~
25 ~~shall be subject to the following requirements:~~

26 ~~(1) The board shall deny an application by the individual for~~
27 ~~licensure in accordance with the procedures set forth in Chapter~~
28 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
29 ~~Title 2 of the Government Code.~~

30 ~~(2) If the individual is licensed under this chapter, the board~~
31 ~~shall promptly revoke the license of the individual in accordance~~
32 ~~with the procedures set forth in Chapter 5 (commencing with~~
33 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
34 ~~Code. The board shall not stay the revocation and place the license~~
35 ~~on probation.~~

36 ~~(3) The board shall not reinstate or reissue the individual's~~
37 ~~license. The board shall not issue a stay of license denial nor place~~
38 ~~the license on probation.~~

39 ~~(b) This section shall not apply to any of the following:~~

~~(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender.~~

~~(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under Section 314 of the Penal Code.~~

~~(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2008. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.~~

~~SEC. 45. Section 2533.10 is added to the Business and Professions Code, to read:~~

~~2533.10. (a) Notwithstanding any other provision of law making a communication between a licensee and his or her patients a privileged communication, those provisions shall not apply to investigations or proceedings conducted by the board. Members of the board, deputies, employees, agents, the office of the Attorney General, and representatives of the board shall keep in confidence during the course of investigations the names of any patients whose records are reviewed and may not disclose or reveal those names, except as is necessary during the course of an investigation, unless and until proceedings are instituted. The authority under this subdivision to examine records of patients in the office of a licensee is limited to records of patients who have complained to the board about that licensee.~~

~~(b) Notwithstanding any other provision of law, the Attorney General and his or her investigative agents, and the board and its investigators and representatives may inquire into any alleged violation of the laws under the jurisdiction of the board or any other federal or state law, regulation, or rule relevant to the practice~~

1 regulated by the board, whichever is applicable, and may inspect
2 documents relevant to those investigations in accordance with the
3 following procedures:

4 (1) Any document relevant to an investigation may be inspected,
5 and copies may be obtained, where a patient provides written
6 authorization.

7 (2) Any document relevant to the business operations of a
8 licensee, and not involving medical records attributable to
9 identifiable patients, may be inspected and copied where relevant
10 to an investigation of a licensee.

11 (c) In all cases where documents are inspected or copies of those
12 documents are received, their acquisition or review shall be
13 arranged so as not to unnecessarily disrupt the medical and business
14 operations of the licensee or of the facility where the records are
15 kept or used.

16 (d) Where certified documents are lawfully requested from
17 licensees in accordance with this section by the Attorney General
18 or his or her agents or deputies, or investigators of any board, the
19 documents shall be provided within 10 business days of receipt of
20 the request, unless the licensee is unable to provide the certified
21 documents within this time period for good cause, including, but
22 not limited to, physical inability to access the records in the time
23 allowed due to illness or travel. Failure to produce requested
24 certified documents or copies thereof, after being informed of the
25 required deadline, shall constitute unprofessional conduct. A board
26 may use its authority to cite and fine a licensee for any violation
27 of this section. This remedy is in addition to any other authority
28 of the board to sanction a licensee for a delay in producing
29 requested records.

30 (e) Searches conducted of the office or medical facility of any
31 licensee shall not interfere with the recordkeeping format or
32 preservation needs of any licensee necessary for the lawful care
33 of patients.

34 (f) The licensee shall cooperate with the board in furnishing
35 information or assistance as may be required, including, but not
36 limited to, participation in an interview with investigators or
37 representatives of the board.

38 (g) This section shall not apply to a licensee who does not have
39 access to, and control over, certified medical records or other types

1 of documents that belong to or are controlled by a health facility
2 or clinic.

3 ~~SEC. 46. Section 2533.11 is added to the Business and~~
4 ~~Professions Code, to read:~~

5 ~~2533.11. (a) (1) Notwithstanding any other provision of law,~~
6 ~~a licensee who fails or refuses to comply with a request for the~~
7 ~~certified medical records of a patient that is accompanied by that~~
8 ~~patient's written authorization for release of records to a board~~
9 ~~together with a notice citing this section and describing the~~
10 ~~penalties for failure to comply with this section shall be required~~
11 ~~to pay to the board a civil penalty of up to one thousand dollars~~
12 ~~(\$1,000) per day for each day that the documents have not been~~
13 ~~produced after the 15th day, up to ten thousand dollars (\$10,000);~~
14 ~~unless the licensee is unable to provide the documents within this~~
15 ~~time period for good cause.~~

16 ~~(2) A health care facility shall comply with a request for the~~
17 ~~certified medical records of a patient that is accompanied by that~~
18 ~~patient's written authorization for release of records to a board~~
19 ~~together with a notice citing this section and describing the~~
20 ~~penalties for failure to comply with this section. Failure to provide~~
21 ~~the authorizing patient's certified medical records to the board~~
22 ~~within 15 days of receiving the request, authorization, and notice~~
23 ~~shall subject the health care facility to a civil penalty, payable to~~
24 ~~the board, of up to one thousand dollars (\$1,000) per day for each~~
25 ~~day that the documents have not been produced after the 15th day,~~
26 ~~up to ten thousand dollars (\$10,000), unless the health care facility~~
27 ~~is unable to provide the documents within this time period for good~~
28 ~~cause. This paragraph shall not require health care facilities to~~
29 ~~assist the board in obtaining the patient's authorization. The board~~
30 ~~shall pay the reasonable costs of copying the certified medical~~
31 ~~records, but shall not be required to make that payment prior to~~
32 ~~the production of the medical records.~~

33 ~~(b) (1) A licensee who fails or refuses to comply with a court~~
34 ~~order, issued in the enforcement of a subpoena, mandating the~~
35 ~~release of records to the board, shall pay to the board a civil penalty~~
36 ~~of up to one thousand dollars (\$1,000) per day for each day that~~
37 ~~the documents have not been produced after the date by which the~~
38 ~~court order requires the documents to be produced, up to ten~~
39 ~~thousand dollars (\$10,000), unless it is determined that the order~~
40 ~~is unlawful or invalid. Any statute of limitations applicable to the~~

1 filing of an accusation by the board shall be tolled during the period
2 the licensee is out of compliance with the court order and during
3 any related appeals.

4 (2) Any licensee who fails or refuses to comply with a court
5 order, issued in the enforcement of a subpoena, mandating the
6 release of records to a board is guilty of a misdemeanor punishable
7 by a fine payable to the board not to exceed five thousand dollars
8 (\$5,000). The fine shall be added to the licensee's renewal fee if
9 it is not paid by the next succeeding renewal date. Any statute of
10 limitations applicable to the filing of an accusation by the board
11 shall be tolled during the period the licensee is out of compliance
12 with the court order and during any related appeals.

13 (3) A health care facility that fails or refuses to comply with a
14 court order, issued in the enforcement of a subpoena, mandating
15 the release of patient records to the board, that is accompanied by
16 a notice citing this section and describing the penalties for failure
17 to comply with this section, shall pay to the healing arts board a
18 civil penalty of up to one thousand dollars (\$1,000) per day for
19 each day that the documents have not been produced, up to ten
20 thousand dollars (\$10,000), after the date by which the court order
21 requires the documents to be produced, unless it is determined that
22 the order is unlawful or invalid. Any statute of limitations
23 applicable to the filing of an accusation by the board against a
24 licensee shall be tolled during the period the health care facility is
25 out of compliance with the court order and during any related
26 appeals.

27 (4) Any health care facility that fails or refuses to comply with
28 a court order, issued in the enforcement of a subpoena, mandating
29 the release of records to the board is guilty of a misdemeanor
30 punishable by a fine payable to the board not to exceed five
31 thousand dollars (\$5,000). Any statute of limitations applicable to
32 the filing of an accusation by the healing arts board against a
33 licensee shall be tolled during the period the health care facility is
34 out of compliance with the court order and during any related
35 appeals.

36 (e) Multiple acts by a licensee in violation of subdivision (b)
37 shall be punishable by a fine not to exceed five thousand dollars
38 (\$5,000) or by imprisonment in a county jail not exceeding six
39 months, or by both that fine and imprisonment. Multiple acts by
40 a health care facility in violation of subdivision (b) shall be

1 punishable by a fine not to exceed five thousand dollars (\$5,000),
2 shall be reported to the State Department of Public Health, and
3 shall be considered as grounds for disciplinary action with respect
4 to licensure, including suspension or revocation of the license or
5 certificate.

6 (d) ~~A failure or refusal of a licensee to comply with a court~~
7 ~~order, issued in the enforcement of a subpoena, mandating the~~
8 ~~release of records to the healing arts board constitutes~~
9 ~~unprofessional conduct and is grounds for suspension or revocation~~
10 ~~of his or her license.~~

11 (e) ~~Imposition of the civil penalties authorized by this section~~
12 ~~shall be in accordance with the Administrative Procedure Act~~
13 ~~(Chapter 5 (commencing with Section 11500) of Division 3 of~~
14 ~~Title 2 of the Government Code). Any civil penalties paid to, or~~
15 ~~received by, the board pursuant to this section shall be deposited~~
16 ~~into the fund administered by the board.~~

17 (f) ~~For purposes of this section, “certified medical records”~~
18 ~~means a copy of the patient’s medical records authenticated by the~~
19 ~~licensee or health care facility, as appropriate, on a form prescribed~~
20 ~~by the licensee’s board.~~

21 (g) ~~For purposes of this section, a “health care facility” means~~
22 ~~a clinic or health facility licensed or exempt from licensure~~
23 ~~pursuant to Division 2 (commencing with Section 1200) of the~~
24 ~~Health and Safety Code.~~

25 (h) ~~If a board complies with Section 1684.1, 2225.5, or 2969,~~
26 ~~that board shall not be subject to the requirements of this section.~~

27 (i) ~~This section shall not apply to a licensee who does not have~~
28 ~~access to, or control over, certified medical records or other types~~
29 ~~of documents that belong to or are controlled by a health facility~~
30 ~~or clinic.~~

31 *SEC. 42. Section 2533.9 is added to the Business and*
32 *Professions Code, to read:*

33 *2533.9. Notwithstanding any other provision of law, it is a*
34 *public offense, punishable by a fine not to exceed one hundred*
35 *thousand dollars (\$100,000), by imprisonment in a county jail not*
36 *to exceed one year, or by both that fine and imprisonment, for:*

37 *(a) Any person who does not hold a current and valid license*
38 *to practice speech-language pathology and audiology to engage*
39 *in that practice.*

1 **(b) Any person to fraudulently buy, sell, or obtain a license to**
2 **practice speech-language pathology and audiology or to violate**
3 **any provision of this chapter.**

4 ~~SEC. 47.~~

5 **SEC. 43.** Section 2533.12 is added to the Business and
6 Professions Code, to read:

7 2533.12. (a) Notwithstanding any other provision of law, any
8 employer of a licensee shall report to the board the suspension or
9 termination for cause, or any resignation in lieu of suspension or
10 termination for cause, of any licensee in its employ within 15
11 business days. The report shall not be made until after the
12 conclusion of the review process specified in Section 52.3 of Title
13 2 of the California Code of Regulations and *Skelly v. State*
14 *Personnel Bd. (1975) 15 Cal.3d 194*, for public employees. This
15 required reporting shall not constitute a waiver of confidentiality
16 of medical records. The information reported or disclosed shall be
17 kept confidential except as provided in subdivision (c) of Section
18 800 and shall not be subject to discovery in civil cases.

19 (b) The information to be reported by the employer shall include
20 the name and license number of the licensee involved, a
21 description of the facts and circumstances of the suspension or
22 termination for cause, any resignation in lieu of suspension or
23 termination for cause, and any other relevant information deemed
24 appropriate by the employer.

25 (c) The board shall be entitled to inspect and copy the following
26 documents in the record for any suspension or termination for
27 cause, or any resignation in lieu of suspension or termination for
28 cause, resulting in action that is required to be reported pursuant
29 to this section:

30 (1) Any statement for suspension or termination of the licensee.

31 (2) Any document or exhibits relevant to the suspension or
32 termination.

33 (d) If, during the investigation by the board of the cause for the
34 termination or suspension or resignation of the licensee, it is found
35 that there has been a violation of existing state or federal law, the
36 board shall report the violation to the appropriate agency.

37 (e) For purposes of this section, “suspension or termination for
38 cause” or “resignation in lieu of suspension or termination for
39 cause” is defined as resignation, suspension, or termination from
40 employment for any of the following reasons:

1 (1) Use of controlled substances or alcohol to the extent that it
2 impairs the licensee's ability to safely practice.

3 (2) Unlawful sale of a controlled substance or other prescription
4 items.

5 (3) Patient or client abuse, neglect, physical harm, or sexual
6 contact with a patient or client.

7 (4) Gross negligence or incompetence.

8 (5) Theft from a patient or client, any other employee, or the
9 employer.

10 (f) As used in this section, the following definitions apply:

11 (1) "Gross negligence" means a substantial departure from the
12 standard of care, which, under similar circumstances, would have
13 ordinarily been exercised by a competent licensee, and which has
14 or could have resulted in harm to the consumer. An exercise of so
15 slight a degree of care as to justify the belief that there was a
16 conscious disregard or indifference for the health, safety, or welfare
17 of the consumer shall be considered a substantial departure from
18 the standard of care.

19 (2) "Incompetence" means the lack of possession of, and the
20 failure to exercise that degree of learning, skill, care, and
21 experience ordinarily possessed by, a responsible licensee.

22 (3) "Willful" means a knowing and intentional violation of a
23 known legal duty.

24 (g) (1) Willful failure of an employer to make a report required
25 by this section is punishable by an administrative fine not to exceed
26 one hundred thousand dollars (\$100,000) per violation.

27 (2) Any failure of an employer, other than willful failure, to
28 make a report required by this section is punishable by an
29 administrative fine not to exceed fifty thousand dollars (\$50,000).

30 (h) The board shall investigate the circumstances underlying
31 any report received pursuant to this section within 30 days to
32 determine if an interim suspension order or temporary restraining
33 order should be issued. The board shall otherwise provide timely
34 disposition of the reports received pursuant to this section.

35 (i) The board shall send to the licentiate a copy of the report
36 along with the reasons for the filing of the report and notice
37 advising the licentiate of his or her right to submit additional
38 statements or other information to the board.

1 (j) Pursuant to Section 43.8 of the Civil Code, no person shall
2 incur any civil penalty as a result of making any report required
3 by this article.

4 (k) No report is required under this section where a report of
5 the action taken is already required under Section 805.

6 ~~SEC. 48.~~

7 *SEC. 44.* Section 2533.13 is added to the Business and
8 Professions Code, to read:

9 2533.13. Unless otherwise provided, on or after July 1, ~~2013~~
10 ~~2014~~, the board shall post on its Internet Web site the following
11 information including the name and license number in its
12 possession, custody, or control regarding every licensee ~~for which~~
13 *whom* the board licenses:

14 (a) With regard to the status of every license, whether or not
15 the licensee or former licensee is in good standing, subject to a
16 temporary restraining order, subject to an interim suspension order,
17 subject to a restriction or cease practice ordered pursuant to Section
18 23 of the Penal Code, or subject to any of the enforcement actions
19 described in Section 803.1.

20 (b) With regard to prior discipline of a licensee, whether or not
21 the licensee or former licensee has been subject to discipline by
22 the board or by the board of another state or jurisdiction, as
23 described in Section 803.1.

24 (c) Any felony conviction of a licensee reported to the board.

25 (d) All current accusations filed by the Attorney General,
26 including those accusations that are on appeal. For purposes of
27 this paragraph, “current accusation” means an accusation that has
28 not been dismissed, withdrawn, or settled, and has not been finally
29 decided upon by an administrative law judge and the board unless
30 an appeal of that decision is pending.

31 (e) Any malpractice judgment or arbitration award imposed
32 against a licensee and reported to the board.

33 (f) Any hospital disciplinary action imposed against a licensee
34 that resulted in the termination or revocation of a licensee’s hospital
35 staff privileges for a medical disciplinary cause or reason pursuant
36 to Section ~~2533.11~~ or 805.

37 (g) Any misdemeanor conviction of a licensee that results in a
38 disciplinary action or an accusation that is not subsequently
39 withdrawn or dismissed.

(h) Appropriate disclaimers and explanatory statements to accompany the above information, including an explanation of what types of information are not disclosed. These disclaimers and statements shall be developed by the board and shall be adopted by regulation.

(i) The information provided on the Internet shall be in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records.

(j) Information provided on the Internet may not include personal information, unless otherwise provided pursuant to this chapter, including the home telephone number, date of birth, or social security number. The information may not include the licensee's address, but may include the city and county of the licensee's address of record.

~~SEC. 49.~~

SEC. 45. Section 2533.14 is added to the Business and Professions Code, to read:

2533.14. (a) Unless otherwise provided, if a licensee possesses a license or is otherwise authorized to practice in any state other than California or by any agency of the federal government and that license or authority is suspended or revoked outright, the California license of the licensee shall be suspended automatically for the duration of the suspension or revocation, unless terminated or rescinded as provided in subdivision (c). The healing arts board shall notify the licensee of the license suspension and of his or her right to have the issue of penalty heard as provided in this section.

(b) Upon its own motion or for good cause shown, the board may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of, and confidence in, the specific healing art.

(c) The issue of penalty shall be heard by an administrative law judge sitting alone or with a panel of the board, in the discretion of the board. A licensee may request a hearing on the penalty and that hearing shall be held within 90 days from the date of the

request. If the order suspending or revoking the license or authority to practice is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Upon a showing to the administrative law judge or panel by the licensee that the out-of-state action is not a basis for discipline in California, the suspension shall be rescinded. If an accusation for permanent discipline is not filed within 90 days of the suspension imposed pursuant to this section, the suspension shall automatically terminate.

(d) The record of the proceedings that resulted in the suspension or revocation of the licensee's out-of-state license or authority to practice, including a transcript of the testimony therein, may be received in evidence.

(e) This section shall not apply to a licensee who maintains his or her primary practice in California, as evidenced by having maintained a practice in this state for not less than one year immediately preceding the date of suspension or revocation. Nothing in this section shall preclude a licensee's license from being suspended pursuant to any other provision of law.

(f) This section shall not apply to a licensee whose license has been surrendered, whose only discipline is a medical staff disciplinary action at a federal hospital and not for medical disciplinary cause or reason as that term is defined in Section 805, or whose revocation or suspension has been stayed, even if the licensee remains subject to terms of probation or other discipline.

(g) This section shall not apply to a suspension or revocation imposed by a state that is based solely on the prior discipline of the licensee by another state.

(h) The other provisions of this article setting forth a procedure for the suspension or revocation of a licensee's license or certificate shall not apply to summary suspensions issued pursuant to this section. If a summary suspension has been issued pursuant to this section, the licensee may request that the hearing on the penalty conducted pursuant to subdivision (c) be held at the same time as a hearing on the accusation.

~~(i) A board that complies with Section 2310 shall not be subject to the requirements of this section.~~

SEC. 46. Section 2538.52.5 is added to the Business and Professions Code, to read:

1 2538.52.5. *Notwithstanding any other provision of law, it is a*
2 *public offense, punishable by a fine not to exceed one hundred*
3 *thousand dollars (\$100,000), by imprisonment in a county jail not*
4 *to exceed one year, or by both that fine and imprisonment, for:*

5 (a) *Any person who does not hold a current and valid license*
6 *to fit and sell hearing aids to engage in the fitting and selling of*
7 *hearing aids.*

8 (b) *Any person to fraudulently buy, sell, or obtain a license to*
9 *fit and sell hearing aids or to violate any provision of this chapter.*

10 ~~SEC. 50.~~

11 SEC. 47. Section 2570.38 is added to the Business and
12 Professions Code, to read:

13 2570.38. (a) The board may delegate to its executive officer
14 the authority to adopt a proposed default decision where an
15 administrative action to revoke a license has been filed and the
16 licensee has failed to file a notice of defense or to appear at the
17 hearing and a proposed default decision revoking the license has
18 been issued.

19 (b) The board may delegate to its executive officer the authority
20 to adopt a proposed settlement agreement where an administrative
21 action to revoke a license has been filed by the board and the
22 licensee has agreed to the revocation or surrender of his or her
23 license.

24 (c) The executive officer shall, at scheduled board meetings,
25 report to the board the number of proposed default decisions or
26 proposed settlement agreements adopted pursuant to this section.

27 ~~SEC. 51.~~

28 SEC. 48. Section 2570.39 is added to the Business and
29 Professions Code, to read:

30 2570.39. (a) Notwithstanding Section 11415.60 of the
31 Government Code, the board may enter into a settlement with a
32 licensee or applicant in lieu of the issuance of an accusation or
33 statement of issues against that licensee or applicant, as applicable.

34 (b) The settlement shall include language identifying the factual
35 basis for the action being taken and a list of the statutes or
36 regulations violated.

37 (c) A person who enters *into* a settlement pursuant to this section
38 is not precluded from filing a petition, in the timeframe permitted
39 by law, to modify the terms of the settlement or petition for early
40 termination of probation, if probation is part of the settlement.

1 (d) Any settlement against a licensee executed pursuant to this
2 section shall be considered discipline and a public record and shall
3 be posted on the applicable board's Internet Web site. Any
4 settlement against an applicant executed pursuant to this section
5 shall be considered a public record and shall be posted on the
6 applicable board's Internet Web site.

7 (e) The executive officer shall, at scheduled board meetings,
8 report to the board the number of proposed settlement agreements
9 adopted pursuant to this section.

10 ~~SEC. 52.~~

11 *SEC. 49.* Section 2570.40 is added to the Business and
12 Professions Code, to read:

13 2570.40. (a) The license of a licensee shall be suspended
14 automatically during any time that the licensee is incarcerated after
15 conviction of a felony, regardless of whether the conviction has
16 been appealed. The board shall, immediately upon receipt of the
17 certified copy of the record of conviction, determine whether the
18 license of the licensee has been automatically suspended by virtue
19 of his or her incarceration, and if so, the duration of that
20 suspension. The board shall notify the licensee in writing of the
21 license suspension and of his or her right to elect to have the issue
22 of penalty heard as provided in subdivision (d).

23 (b) Upon receipt of the certified copy of the record of conviction,
24 if after a hearing before an administrative law judge from the Office
25 of Administrative Hearings it is determined that the felony for
26 which the licensee was convicted was substantially related to the
27 qualifications, functions, or duties of a licensee, the board shall
28 suspend the license until the time for appeal has elapsed, if no
29 appeal has been taken, or until the judgment of conviction has been
30 affirmed on appeal or has otherwise become final, and until further
31 order of the board.

32 (c) Notwithstanding subdivision (b), a conviction of a charge
33 of violating any federal statute or regulation or any statute or
34 regulation of this state, regulating dangerous drugs or controlled
35 substances, or a conviction of Section 187, 261, 262, or 288 of the
36 Penal Code, shall be conclusively presumed to be substantially
37 related to the qualifications, functions, or duties of a licensee and
38 no hearing shall be held on this issue. However, upon its own
39 motion or for good cause shown, the board may decline to impose
40 or may set aside the suspension when it appears to be in the interest

1 of justice to do so, with due regard to maintaining the integrity of,
2 and confidence in, the practice regulated by the board.

3 (d) (1) Discipline may be ordered against a licensee in
4 accordance with the statutes and regulations of the board when the
5 time for appeal has elapsed, the judgment of conviction has been
6 affirmed on appeal, or an order granting probation is made
7 suspending the imposition of sentence, irrespective of a subsequent
8 order under Section 1203.4 of the Penal Code allowing the person
9 to withdraw his or her plea of guilty and to enter a plea of not
10 guilty, setting aside the verdict of guilty, or dismissing the
11 accusation, complaint, information, or indictment.

12 (2) The issue of penalty shall be heard by an administrative law
13 judge from the Office of Administrative Hearings. The hearing
14 shall not be ~~had~~ held until the judgment of conviction has become
15 final or, irrespective of a subsequent order under Section 1203.4
16 of the Penal Code, an order granting probation has been made
17 suspending the imposition of sentence; except that a licensee may,
18 at his or her option, elect to have the issue of penalty decided before
19 those time periods have elapsed. Where the licensee so elects, the
20 issue of penalty shall be heard in the manner described in
21 subdivision (b) at the hearing to determine whether the conviction
22 was substantially related to the qualifications, functions, or duties
23 of a licensee. If the conviction of a licensee who has made this
24 election is overturned on appeal, any discipline ordered pursuant
25 to this section shall automatically cease. Nothing in this subdivision
26 shall prohibit the board from pursuing disciplinary action based
27 on any cause other than the overturned conviction.

28 (e) The record of the proceedings resulting in a conviction,
29 including a transcript of the testimony in those proceedings, may
30 be received in evidence.

31 (f) Any other provision of law setting forth a procedure for the
32 suspension or revocation of a license issued by the board shall not
33 apply to proceedings conducted pursuant to this section.

34 ~~SEC. 53.~~

35 *SEC. 50.* Section 2570.41 is added to the Business and
36 Professions Code, to read:

37 2570.41. (a) Except as otherwise provided, any proposed
38 decision or decision issued in accordance with the procedures set
39 forth in Chapter 5 (commencing with Section 11500) of Part 1 of
40 Division 3 of Title 2 of the Government Code, that contains any

1 finding of fact that the licensee engaged in any act of sexual contact
2 with a patient, as defined in subdivision (c) of Section 729, or any
3 finding that the licensee has committed a sex offense, shall contain
4 an order revoking the license. The proposed decision shall not
5 contain any order staying the revocation of the licensee.

6 (b) As used in this section, the term ~~sex offense~~ “*sex offense*”
7 shall mean any of the following:

8 (1) Any offense for which registration is required by Section
9 290 of the Penal Code or a finding that a person committed such
10 an act.

11 (2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1,~~
12 ~~or 647(a) or (d) of the Penal Code subdivisions (a) to (d), inclusive,~~
13 ~~of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d)~~
14 ~~of Section 647 of the Penal Code,~~ or a finding that a person
15 committed such an act.

16 (3) Any attempt to commit any of the offenses specified in this
17 section.

18 (4) Any offense committed or attempted in any other state or
19 against the laws of the United States which, if committed or
20 attempted in this state, would have been punishable as one or more
21 of the offenses specified in this section.

22 ~~SEC. 54. Section 2570.42 is added to the Business and~~
23 ~~Professions Code, to read:~~

24 ~~2570.42. (a) Except as otherwise provided, with regard to an~~
25 ~~individual who is required to register as a sex offender pursuant~~
26 ~~to Section 290 of the Penal Code, or the equivalent in another state~~
27 ~~or territory, under military law, or under federal law, the board~~
28 ~~shall be subject to the following requirements:~~

29 ~~(1) The board shall deny an application by the individual for~~
30 ~~licensure in accordance with the procedures set forth in Chapter~~
31 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
32 ~~Title 2 of the Government Code.~~

33 ~~(2) If the individual is licensed under this chapter, the board~~
34 ~~shall promptly revoke the license of the individual in accordance~~
35 ~~with the procedures set forth in Chapter 5 (commencing with~~
36 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
37 ~~Code. The board shall not stay the revocation and place the license~~
38 ~~on probation.~~

~~(3) The board shall not reinstate or reissue the individual's license. The board shall not issue a stay of license denial nor place the license on probation.~~

~~(b) This section shall not apply to any of the following:~~

~~(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender.~~

~~(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under Section 314 of the Penal Code.~~

~~(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2008. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.~~

~~SEC. 55. Section 2570.43 is added to the Business and Professions Code, to read:~~

~~2570.43. (a) Notwithstanding any other provision of law making a communication between a licensee and his or her patients a privileged communication, those provisions shall not apply to investigations or proceedings conducted by the board. Members of the board, deputies, employees, agents, the office of the Attorney General, and representatives of the board shall keep in confidence during the course of investigations the names of any patients whose records are reviewed and may not disclose or reveal those names, except as is necessary during the course of an investigation, unless and until proceedings are instituted. The authority under this subdivision to examine records of patients in the office of a licensee is limited to records of patients who have complained to the board about that licensee.~~

1 ~~(b) Notwithstanding any other provision of law, the Attorney~~
2 ~~General and his or her investigative agents, and the board and its~~
3 ~~investigators and representatives may inquire into any alleged~~
4 ~~violation of the laws under the jurisdiction of the board or any~~
5 ~~other federal or state law, regulation, or rule relevant to the practice~~
6 ~~regulated by the board, whichever is applicable, and may inspect~~
7 ~~documents relevant to those investigations in accordance with the~~
8 ~~following procedures:~~

9 ~~(1) Any document relevant to an investigation may be inspected,~~
10 ~~and copies may be obtained, where a patient provides written~~
11 ~~authorization.~~

12 ~~(2) Any document relevant to the business operations of a~~
13 ~~licensee, and not involving medical records attributable to~~
14 ~~identifiable patients, may be inspected and copied where relevant~~
15 ~~to an investigation of a licensee.~~

16 ~~(c) In all cases where documents are inspected or copies of those~~
17 ~~documents are received, their acquisition or review shall be~~
18 ~~arranged so as not to unnecessarily disrupt the medical and business~~
19 ~~operations of the licensee or of the facility where the records are~~
20 ~~kept or used.~~

21 ~~(d) Where certified documents are lawfully requested from~~
22 ~~licensees in accordance with this section by the Attorney General~~
23 ~~or his or her agents or deputies, or investigators of any board, the~~
24 ~~documents shall be provided within 10 business days of receipt of~~
25 ~~the request, unless the licensee is unable to provide the certified~~
26 ~~documents within this time period for good cause, including, but~~
27 ~~not limited to, physical inability to access the records in the time~~
28 ~~allowed due to illness or travel. Failure to produce requested~~
29 ~~certified documents or copies thereof, after being informed of the~~
30 ~~required deadline, shall constitute unprofessional conduct. A board~~
31 ~~may use its authority to cite and fine a licensee for any violation~~
32 ~~of this section. This remedy is in addition to any other authority~~
33 ~~of the healing arts board to sanction a licensee for a delay in~~
34 ~~producing requested records.~~

35 ~~(e) Searches conducted of the office or medical facility of any~~
36 ~~licensee shall not interfere with the recordkeeping format or~~
37 ~~preservation needs of any licensee necessary for the lawful care~~
38 ~~of patients.~~

39 ~~(f) The licensee shall cooperate with the board in furnishing~~
40 ~~information or assistance as may be required, including, but not~~

1 limited to, participation in an interview with investigators or
2 representatives of the healing arts board.

3 ~~(g) This section shall not apply to a licensee who does not have~~
4 ~~access to, and control over, certified medical records or other types~~
5 ~~of documents that belong to or are controlled by a health facility~~
6 ~~or clinic.~~

7 SEC. 56. ~~Section 2570.44 is added to the Business and~~
8 ~~Professions Code, to read:~~

9 ~~2570.44. (a) (1) Notwithstanding any other provision of law,~~
10 ~~a licensee who fails or refuses to comply with a request for the~~
11 ~~certified medical records of a patient that is accompanied by that~~
12 ~~patient's written authorization for release of records to a board~~
13 ~~together with a notice citing this section and describing the~~
14 ~~penalties for failure to comply with this section shall be required~~
15 ~~to pay to the board a civil penalty of up to one thousand dollars~~
16 ~~(\$1,000) per day for each day that the documents have not been~~
17 ~~produced after the 15th day, up to ten thousand dollars (\$10,000),~~
18 ~~unless the licensee is unable to provide the documents within this~~
19 ~~time period for good cause.~~

20 ~~(2) A health care facility shall comply with a request for the~~
21 ~~certified medical records of a patient that is accompanied by that~~
22 ~~patient's written authorization for release of records to a board~~
23 ~~together with a notice citing this section and describing the~~
24 ~~penalties for failure to comply with this section. Failure to provide~~
25 ~~the authorizing patient's certified medical records to the board~~
26 ~~within 15 days of receiving the request, authorization, and notice~~
27 ~~shall subject the health care facility to a civil penalty, payable to~~
28 ~~the board, of up to one thousand dollars (\$1,000) per day for each~~
29 ~~day that the documents have not been produced after the 15th day,~~
30 ~~up to ten thousand dollars (\$10,000), unless the health care facility~~
31 ~~is unable to provide the documents within this time period for good~~
32 ~~cause. This paragraph shall not require health care facilities to~~
33 ~~assist the board in obtaining the patient's authorization. The board~~
34 ~~shall pay the reasonable costs of copying the certified medical~~
35 ~~records, but shall not be required to make that payment prior to~~
36 ~~the production of the medical records.~~

37 ~~(b) (1) A licensee who fails or refuses to comply with a court~~
38 ~~order, issued in the enforcement of a subpoena, mandating the~~
39 ~~release of records to the board, shall pay to the board a civil penalty~~
40 ~~of up to one thousand dollars (\$1,000) per day for each day that~~

1 the documents have not been produced after the date by which the
2 court order requires the documents to be produced, up to ten
3 thousand dollars (\$10,000), unless it is determined that the order
4 is unlawful or invalid. Any statute of limitations applicable to the
5 filing of an accusation by the board shall be tolled during the period
6 the licensee is out of compliance with the court order and during
7 any related appeals.

8 (2) Any licensee who fails or refuses to comply with a court
9 order, issued in the enforcement of a subpoena, mandating the
10 release of records to a board is guilty of a misdemeanor punishable
11 by a fine payable to the board not to exceed five thousand dollars
12 (\$5,000). The fine shall be added to the licensee's renewal fee if
13 it is not paid by the next succeeding renewal date. Any statute of
14 limitations applicable to the filing of an accusation by the board
15 shall be tolled during the period the licensee is out of compliance
16 with the court order and during any related appeals.

17 (3) A health care facility that fails or refuses to comply with a
18 court order, issued in the enforcement of a subpoena, mandating
19 the release of patient records to the board, that is accompanied by
20 a notice citing this section and describing the penalties for failure
21 to comply with this section, shall pay to the board a civil penalty
22 of up to one thousand dollars (\$1,000) per day for each day that
23 the documents have not been produced, up to ten thousand dollars
24 (\$10,000), after the date by which the court order requires the
25 documents to be produced, unless it is determined that the order
26 is unlawful or invalid. Any statute of limitations applicable to the
27 filing of an accusation by the board against a licensee shall be
28 tolled during the period the health care facility is out of compliance
29 with the court order and during any related appeals.

30 (4) Any health care facility that fails or refuses to comply with
31 a court order, issued in the enforcement of a subpoena, mandating
32 the release of records to the board is guilty of a misdemeanor
33 punishable by a fine payable to the board not to exceed five
34 thousand dollars (\$5,000). Any statute of limitations applicable to
35 the filing of an accusation by the healing arts board against a
36 licensee shall be tolled during the period the health care facility is
37 out of compliance with the court order and during any related
38 appeals.

39 (e) Multiple acts by a licensee in violation of subdivision (b)
40 shall be punishable by a fine not to exceed five thousand dollars

~~(b) (\$5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000); shall be reported to the State Department of Public Health, and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate.~~

~~(d) A failure or refusal of a licensee to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the healing arts board constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.~~

~~(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code). Any civil penalties paid to, or received by, the board pursuant to this section shall be deposited into the fund administered by the board.~~

~~(f) For purposes of this section, "certified medical records" means a copy of the patient's medical records authenticated by the licensee or health care facility, as appropriate, on a form prescribed by the licensee's board.~~

~~(g) For purposes of this section, a "health care facility" means a clinic or health facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.~~

~~(h) If a board complies with Section 1684.1, 2225.5, or 2969, that board shall not be subject to the requirements of this section.~~

~~(i) This section shall not apply to a licensee who does not have access to, or control over, certified medical records or other types of documents that belong to or are controlled by a health facility or clinic.~~

~~SEC. 57.~~

SEC. 51. Section 2570.45 is added to the Business and Professions Code, to read:

2570.45. (a) Notwithstanding any other provision of law, any employer of a licensee shall report to the board the suspension or termination for cause, or any resignation in lieu of suspension or termination for cause, of any licensee in its employ within 15

1 business days. The report shall not be made until after the
2 conclusion of the review process specified in Section 52.3 of Title
3 2 of the California Code of Regulations and *Skelly v. State*
4 *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This
5 required reporting shall not constitute a waiver of confidentiality
6 of medical records. The information reported or disclosed shall be
7 kept confidential except as provided in subdivision (c) of Section
8 800 and shall not be subject to discovery in civil cases.

9 (b) The information to be reported by the employer shall include
10 the name and license number of the licensee involved, a
11 description of the facts and circumstances of the suspension or
12 termination for cause, any resignation in lieu of suspension or
13 termination for cause, and any other relevant information deemed
14 appropriate by the employer.

15 (c) The board shall be entitled to inspect and copy the following
16 documents in the record for any suspension or termination for
17 cause, or any resignation in lieu of suspension or termination for
18 cause, resulting in action that is required to be reported pursuant
19 to this section:

20 (1) Any statement for suspension or termination of the licensee.

21 (2) Any document or exhibits relevant to the suspension or
22 termination.

23 (d) If, during the investigation by the board of the cause for the
24 termination or suspension or resignation of the licensee, it is found
25 that there has been a violation of existing state or federal law, the
26 board shall report the violation to the appropriate agency.

27 (e) For purposes of this section, “suspension or termination for
28 cause” or “resignation in lieu of suspension or termination for
29 cause” is defined as resignation, suspension, or termination from
30 employment for any of the following reasons:

31 (1) Use of controlled substances or alcohol to the extent that it
32 impairs the licensee’s ability to safely practice.

33 (2) Unlawful sale of a controlled substance or other prescription
34 items.

35 (3) Patient or client abuse, neglect, physical harm, or sexual
36 contact with a patient or client.

37 (4) Gross negligence or incompetence.

38 (5) Theft from a patient or client, any other employee, or the
39 employer.

40 (f) As used in this section, the following definitions apply:

(1) “Gross negligence” means a substantial departure from the standard of care, which, under similar circumstances, would have ordinarily been exercised by a competent licensee, and which has or could have resulted in harm to the consumer. An exercise of so slight a degree of care as to justify the belief that there was a conscious disregard or indifference for the health, safety, or welfare of the consumer shall be considered a substantial departure from the standard of care.

(2) “Incompetence” means the lack of possession of, and the failure to exercise that degree of learning, skill, care, and experience ordinarily possessed by, a responsible licensee.

(3) “Willful” means a knowing and intentional violation of a known legal duty.

(g) (1) Willful failure of an employer to make a report required by this section is punishable by an administrative fine not to exceed one hundred thousand dollars (\$100,000) per violation.

(2) Any failure of an employer, other than willful failure, to make a report required by this section is punishable by an administrative fine not to exceed fifty thousand dollars (\$50,000).

(h) The board shall investigate the circumstances underlying any report received pursuant to this section within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to this section.

(i) The board shall send to the licentiate a copy of the report along with the reasons for the filing of the report and notice advising the licentiate of his or her right to submit additional statements or other information to the board.

(j) Pursuant to Section 43.8 of the Civil Code, no person shall incur any civil penalty as a result of making any report required by this article.

(k) No report is required under this section where a report of the action taken is already required under Section 805.

~~SEC. 58.~~

SEC. 52. Section 2570.46 is added to the Business and Professions Code, to read:

2570.46. Unless otherwise provided, on or after July 1, 2013, the board shall post on its Internet Web site the following information, including the name and license number, in its

1 possession, custody, or control regarding every licensee for which
2 *whom* the board licenses:

3 (a) With regard to the status of every license, whether or not
4 the licensee or former licensee is in good standing, subject to a
5 temporary restraining order, subject to an interim suspension order,
6 subject to a restriction or cease practice ordered pursuant to Section
7 23 of the Penal Code, or subject to any of the enforcement actions
8 described in Section 803.1.

9 (b) With regard to prior discipline of a licensee, whether or not
10 the licensee or former licensee has been subject to discipline by
11 the board or by the board of another state or jurisdiction, as
12 described in Section 803.1.

13 (c) Any felony conviction of a licensee reported to the board.

14 (d) All current accusations filed by the Attorney General,
15 including those accusations that are on appeal. For purposes of
16 this paragraph, “current accusation” means an accusation that has
17 not been dismissed, withdrawn, or settled, and has not been finally
18 decided upon by an administrative law judge and the board unless
19 an appeal of that decision is pending.

20 (e) Any malpractice judgment or arbitration award imposed
21 against a licensee and reported to the healing arts board.

22 (f) Any hospital disciplinary action imposed against a licensee
23 that resulted in the termination or revocation of a licensee’s hospital
24 staff privileges for a medical disciplinary cause or reason pursuant
25 to Section ~~2570.44~~ or 805.

26 (g) Any misdemeanor conviction of a licensee that results in a
27 disciplinary action or an accusation that is not subsequently
28 withdrawn or dismissed.

29 (h) Appropriate disclaimers and explanatory statements to
30 accompany the above information, including an explanation of
31 what types of information are not disclosed. These disclaimers and
32 statements shall be developed by the board and shall be adopted
33 by regulation.

34 (i) The information provided on the Internet shall be in
35 accordance with the California Public Records Act (Chapter 3.5
36 (commencing with Section 6250) of Division 7 of Title 1 of the
37 Government Code) and the Information Practices Act of 1977
38 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
39 4 of Division 3 of the Civil Code) and shall comply with the

1 Department of Consumer Affairs Guidelines for Access to Public
2 Records.

3 (j) Information provided on the Internet may not include
4 personal information, unless otherwise provided pursuant to this
5 chapter, including the home telephone number, date of birth, or
6 social security number. The information may not include the
7 licensee's address, but may include the city and county of the
8 licensee's address of record.

9 ~~SEC. 59.~~

10 *SEC. 53.* Section 2570.47 is added to the Business and
11 Professions Code, to read:

12 2570.47. (a) Unless otherwise provided, if a licensee possesses
13 a license or is otherwise authorized to practice in any state other
14 than California or by any agency of the federal government and
15 that license or authority is suspended or revoked outright, the
16 California license of the licensee shall be suspended automatically
17 for the duration of the suspension or revocation, unless terminated
18 or rescinded as provided in subdivision (c). The board shall notify
19 the licensee of the license suspension and of his or her right to
20 have the issue of penalty heard as provided in this section.

21 (b) Upon its own motion or for good cause shown, the board
22 may decline to impose or may set aside the suspension when it
23 appears to be in the interest of justice to do so, with due regard to
24 maintaining the integrity of, and confidence in, the specific healing
25 art.

26 (c) The issue of penalty shall be heard by an administrative law
27 judge sitting alone or with a panel of the board, in the discretion
28 of the board. A licensee may request a hearing on the penalty and
29 that hearing shall be held within 90 days from the date of the
30 request. If the order suspending or revoking the license or authority
31 to practice is overturned on appeal, any discipline ordered pursuant
32 to this section shall automatically cease. Upon a showing to the
33 administrative law judge or panel by the licensee that the
34 out-of-state action is not a basis for discipline in California, the
35 suspension shall be rescinded. If an accusation for permanent
36 discipline is not filed within 90 days of the suspension imposed
37 pursuant to this section, the suspension shall automatically
38 terminate.

39 (d) The record of the proceedings that resulted in the suspension
40 or revocation of the licensee's out-of-state license or authority to

1 practice, including a transcript of the testimony therein, may be
2 received in evidence.

3 (e) This section shall not apply to a licensee who maintains his
4 or her primary practice in California, as evidenced by having
5 maintained a practice in this state for not less than one year
6 immediately preceding the date of suspension or revocation.
7 Nothing in this section shall preclude a licensee's license from
8 being suspended pursuant to any other provision of law.

9 (f) This section shall not apply to a licensee whose license has
10 been surrendered, whose only discipline is a medical staff
11 disciplinary action at a federal hospital and not for medical
12 disciplinary cause or reason as that term is defined in Section 805,
13 or whose revocation or suspension has been stayed, even if the
14 licensee remains subject to terms of probation or other discipline.

15 (g) This section shall not apply to a suspension or revocation
16 imposed by a state that is based solely on the prior discipline of
17 the licensee by another state.

18 (h) The other provisions of this article setting forth a procedure
19 for the suspension or revocation of a licensee's license or certificate
20 shall not apply to summary suspensions issued pursuant to this
21 section. If a summary suspension has been issued pursuant to this
22 section, the licensee may request that the hearing on the penalty
23 conducted pursuant to subdivision (c) be held at the same time as
24 a hearing on the accusation.

25 ~~(i) A board that complies with Section 2310 shall not be subject~~
26 ~~to the requirements of this section.~~

27 ~~SEC. 60. Section 2608.5 of the Business and Professions Code~~
28 ~~is repealed.~~

29 ~~SEC. 61. Section 2660.5 of the Business and Professions Code~~
30 ~~is repealed.~~

31 *SEC. 54. Section 2570.48 is added to the Business and*
32 *Professions Code, to read:*

33 *2570.48. Notwithstanding any other provision of law, it is a*
34 *public offense, punishable by a fine not to exceed one hundred*
35 *thousand dollars (\$100,000), by imprisonment in a county jail not*
36 *to exceed one year, or by both that fine and imprisonment, for:*

37 *(a) Any person who does not hold a current and valid license*
38 *to practice occupational therapy to engage in that practice.*

1 **(b) Any person to fraudulently buy, sell, or obtain a license to**
2 **practice occupational therapy or to violate any provision of this**
3 **chapter.**

4 ~~SEC. 62.~~

5 SEC. 55. Section 2661.8 is added to the Business and
6 Professions Code, to read:

7 2661.8. (a) The board may delegate to its executive officer
8 the authority to adopt a proposed default decision where an
9 administrative action to revoke a license has been filed and the
10 licensee has failed to file a notice of defense or to appear at the
11 hearing and a proposed default decision revoking the license has
12 been issued.

13 (b) The board may delegate to its executive officer the authority
14 to adopt a proposed settlement agreement where an administrative
15 action to revoke a license has been filed by the board and the
16 licensee has agreed to the revocation or surrender of his or her
17 license.

18 (c) The executive officer shall, at scheduled board meetings,
19 report to the board the number of proposed default decisions or
20 proposed settlement agreements adopted pursuant to this section.

21 ~~SEC. 63.~~

22 SEC. 56. Section 2661.9 is added to the Business and
23 Professions Code, to read:

24 2661.9. (a) Notwithstanding Section 11415.60 of the
25 Government Code, the board may enter into a settlement with a
26 licensee or applicant in lieu of the issuance of an accusation or
27 statement of issues against that licensee or applicant, as applicable.

28 (b) The settlement shall include language identifying the factual
29 basis for the action being taken and a list of the statutes or
30 regulations violated.

31 (c) A person who enters *into* a settlement pursuant to this section
32 is not precluded from filing a petition, in the timeframe permitted
33 by law, to modify the terms of the settlement or petition for early
34 termination of probation, if probation is part of the settlement.

35 (d) Any settlement against a licensee executed pursuant to this
36 section shall be considered discipline and a public record and shall
37 be posted on the applicable board's Internet Web site. Any
38 settlement against an applicant executed pursuant to this section
39 shall be considered a public record and shall be posted on the
40 applicable board's Internet Web site.

1 (e) The executive officer shall, at scheduled board meetings,
2 report to the board the number of proposed settlement agreements
3 adopted pursuant to this section.

4 ~~SEC. 64.~~

5 *SEC. 57.* Section 2661.10 is added to the Business and
6 Professions Code, to read:

7 2661.10. (a) The license of a licensee shall be suspended
8 automatically during any time that the licensee is incarcerated after
9 conviction of a felony, regardless of whether the conviction has
10 been appealed. The board shall, immediately upon receipt of the
11 certified copy of the record of conviction, determine whether the
12 license of the licensee has been automatically suspended by virtue
13 of his or her incarceration, and if so, the duration of that
14 suspension. The board shall notify the licensee in writing of the
15 license suspension and of his or her right to elect to have the issue
16 of penalty heard as provided in subdivision (d).

17 (b) Upon receipt of the certified copy of the record of conviction,
18 if after a hearing before an administrative law judge from the Office
19 of Administrative Hearings it is determined that the felony for
20 which the licensee was convicted was substantially related to the
21 qualifications, functions, or duties of a licensee, the board shall
22 suspend the license until the time for appeal has elapsed, if no
23 appeal has been taken, or until the judgment of conviction has been
24 affirmed on appeal or has otherwise become final, and until further
25 order of the board.

26 (c) Notwithstanding subdivision (b), a conviction of a charge
27 of violating any federal statute or regulation or any statute or
28 regulation of this state, regulating dangerous drugs or controlled
29 substances, or a conviction of Section 187, 261, 262, or 288 of the
30 Penal Code, shall be conclusively presumed to be substantially
31 related to the qualifications, functions, or duties of a licensee and
32 no hearing shall be held on this issue. However, upon its own
33 motion or for good cause shown, the board may decline to impose
34 or may set aside the suspension when it appears to be in the interest
35 of justice to do so, with due regard to maintaining the integrity of,
36 and confidence in, the practice regulated by the board.

37 (d) (1) Discipline may be ordered against a licensee in
38 accordance with the statutes and regulations of the board when the
39 time for appeal has elapsed, the judgment of conviction has been
40 affirmed on appeal, or an order granting probation is made

1 suspending the imposition of sentence, irrespective of a subsequent
2 order under Section 1203.4 of the Penal Code allowing the person
3 to withdraw his or her plea of guilty and to enter a plea of not
4 guilty, setting aside the verdict of guilty, or dismissing the
5 accusation, complaint, information, or indictment.

6 (2) The issue of penalty shall be heard by an administrative law
7 judge from the Office of Administrative Hearings. The hearing
8 shall not be ~~had~~ *held* until the judgment of conviction has become
9 final or, irrespective of a subsequent order under Section 1203.4
10 of the Penal Code, an order granting probation has been made
11 suspending the imposition of sentence; except that a licensee may,
12 at his or her option, elect to have the issue of penalty decided before
13 those time periods have elapsed. Where the licensee so elects, the
14 issue of penalty shall be heard in the manner described in
15 subdivision (b) at the hearing to determine whether the conviction
16 was substantially related to the qualifications, functions, or duties
17 of a licensee. If the conviction of a licensee who has made this
18 election is overturned on appeal, any discipline ordered pursuant
19 to this section shall automatically cease. Nothing in this subdivision
20 shall prohibit the board from pursuing disciplinary action based
21 on any cause other than the overturned conviction.

22 (e) The record of the proceedings resulting in a conviction,
23 including a transcript of the testimony in those proceedings, may
24 be received in evidence.

25 (f) Any other provision of law setting forth a procedure for the
26 suspension or revocation of a license issued by the board shall not
27 apply to proceedings conducted pursuant to this section.

28 ~~SEC. 65.~~

29 *SEC. 58.* Section 2661.11 is added to the Business and
30 Professions Code, to read:

31 2661.11. (a) Except as otherwise provided, any proposed
32 decision or decision issued in accordance with the procedures set
33 forth in Chapter 5 (commencing with Section 11500) of Part 1 of
34 Division 3 of Title 2 of the Government Code, that contains any
35 finding of fact that the licensee engaged in any act of sexual contact
36 with a patient, as defined in subdivision (c) of Section 729, or any
37 finding that the licensee has committed a sex offense, shall contain
38 an order revoking the license. The proposed decision shall not
39 contain any order staying the revocation of the licensee.

(b) As used in this section, the term ~~sex offense~~ “*sex offense*” shall mean any of the following:

(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

(2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1, or 647(a) or (d) of the Penal Code~~ *subdivisions (a) to (d), inclusive, of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d) of Section 647 of the Penal Code*, or a finding that a person committed such an act.

(3) Any attempt to commit any of the offenses specified in this section.

(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.

~~SEC. 66. Section 2661.12 is added to the Business and Professions Code, to read:~~

~~2661.12. (a) Except as otherwise provided, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, under military law, or under federal law, the board shall be subject to the following requirements:~~

~~(1) The board shall deny an application by the individual for licensure in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~(2) If the individual is licensed under this chapter, the board shall promptly revoke the license of the individual in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The board shall not stay the revocation and place the license on probation.~~

~~(3) The board shall not reinstate or reissue the individual's license. The board shall not issue a stay of license denial nor place the license on probation.~~

~~(b) This section shall not apply to any of the following:~~

~~(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated~~

1 under California law or the law of the jurisdiction that requires his
2 or her registration as a sex offender.

3 ~~(2) An individual who is required to register as a sex offender~~
4 ~~pursuant to Section 290 of the Penal Code solely because of a~~
5 ~~misdemeanor conviction under Section 314 of the Penal Code.~~
6 ~~However, nothing in this paragraph shall prohibit the board from~~
7 ~~exercising its discretion to discipline a licensee under any other~~
8 ~~provision of state law based upon the licensee's conviction under~~
9 ~~Section 314 of the Penal Code.~~

10 ~~(3) Any administrative adjudication proceeding under Chapter~~
11 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
12 ~~Title 2 of the Government Code that is fully adjudicated prior to~~
13 ~~January 1, 2008. A petition for reinstatement of a revoked or~~
14 ~~surrendered license shall be considered a new proceeding for~~
15 ~~purposes of this paragraph, and the prohibition against reinstating~~
16 ~~a license to an individual who is required to register as a sex~~
17 ~~offender shall be applicable.~~

18 ~~SEC. 67. Section 2661.13 is added to the Business and~~
19 ~~Professions Code, to read:~~

20 ~~2661.13. (a) Notwithstanding any other provision of law~~
21 ~~making a communication between a licensee and his or her patients~~
22 ~~a privileged communication, those provisions shall not apply to~~
23 ~~investigations or proceedings conducted by the board. Members~~
24 ~~of the board, deputies, employees, agents, the office of the Attorney~~
25 ~~General, and representatives of the board shall keep in confidence~~
26 ~~during the course of investigations the names of any patients whose~~
27 ~~records are reviewed and may not disclose or reveal those names,~~
28 ~~except as is necessary during the course of an investigation, unless~~
29 ~~and until proceedings are instituted. The authority under this~~
30 ~~subdivision to examine records of patients in the office of a licensee~~
31 ~~is limited to records of patients who have complained to the board~~
32 ~~about that licensee.~~

33 ~~(b) Notwithstanding any other provision of law, the Attorney~~
34 ~~General and his or her investigative agents, and the board and its~~
35 ~~investigators and representatives may inquire into any alleged~~
36 ~~violation of the laws under the jurisdiction of the board or any~~
37 ~~other federal or state law, regulation, or rule relevant to the practice~~
38 ~~regulated by the board, whichever is applicable, and may inspect~~
39 ~~documents relevant to those investigations in accordance with the~~
40 ~~following procedures:~~

1 ~~(1) Any document relevant to an investigation may be inspected,~~
2 ~~and copies may be obtained, where a patient provides written~~
3 ~~authorization.~~

4 ~~(2) Any document relevant to the business operations of a~~
5 ~~licensee, and not involving medical records attributable to~~
6 ~~identifiable patients, may be inspected and copied where relevant~~
7 ~~to an investigation of a licensee.~~

8 ~~(c) In all cases where documents are inspected or copies of those~~
9 ~~documents are received, their acquisition or review shall be~~
10 ~~arranged so as not to unnecessarily disrupt the medical and business~~
11 ~~operations of the licensee or of the facility where the records are~~
12 ~~kept or used.~~

13 ~~(d) Where certified documents are lawfully requested from~~
14 ~~licensees in accordance with this section by the Attorney General~~
15 ~~or his or her agents or deputies, or investigators of any board, the~~
16 ~~documents shall be provided within 10 business days of receipt of~~
17 ~~the request, unless the licensee is unable to provide the certified~~
18 ~~documents within this time period for good cause, including, but~~
19 ~~not limited to, physical inability to access the records in the time~~
20 ~~allowed due to illness or travel. Failure to produce requested~~
21 ~~certified documents or copies thereof, after being informed of the~~
22 ~~required deadline, shall constitute unprofessional conduct. A board~~
23 ~~may use its authority to cite and fine a licensee for any violation~~
24 ~~of this section. This remedy is in addition to any other authority~~
25 ~~of the board to sanction a licensee for a delay in producing~~
26 ~~requested records.~~

27 ~~(e) Searches conducted of the office or medical facility of any~~
28 ~~licensee shall not interfere with the recordkeeping format or~~
29 ~~preservation needs of any licensee necessary for the lawful care~~
30 ~~of patients.~~

31 ~~(f) The licensee shall cooperate with the board in furnishing~~
32 ~~information or assistance as may be required, including, but not~~
33 ~~limited to, participation in an interview with investigators or~~
34 ~~representatives of the board.~~

35 ~~(g) This section shall not apply to a licensee who does not have~~
36 ~~access to, and control over, certified medical records or other types~~
37 ~~of documents that belong to or are controlled by a health facility~~
38 ~~or clinic.~~

39 ~~SEC. 68. Section 2661.14 is added to the Business and~~
40 ~~Professions Code, to read:~~

1 ~~2661.14. (a) (1) Notwithstanding any other provision of law,~~
2 ~~a licensee who fails or refuses to comply with a request for the~~
3 ~~certified medical records of a patient that is accompanied by that~~
4 ~~patient's written authorization for release of records to a board~~
5 ~~together with a notice citing this section and describing the~~
6 ~~penalties for failure to comply with this section shall be required~~
7 ~~to pay to the board a civil penalty of up to one thousand dollars~~
8 ~~(\$1,000) per day for each day that the documents have not been~~
9 ~~produced after the 15th day, up to ten thousand dollars (\$10,000);~~
10 ~~unless the licensee is unable to provide the documents within this~~
11 ~~time period for good cause.~~

12 ~~(2) A health care facility shall comply with a request for the~~
13 ~~certified medical records of a patient that is accompanied by that~~
14 ~~patient's written authorization for release of records to a board~~
15 ~~together with a notice citing this section and describing the~~
16 ~~penalties for failure to comply with this section. Failure to provide~~
17 ~~the authorizing patient's certified medical records to the board~~
18 ~~within 15 days of receiving the request, authorization, and notice~~
19 ~~shall subject the health care facility to a civil penalty, payable to~~
20 ~~the board, of up to one thousand dollars (\$1,000) per day for each~~
21 ~~day that the documents have not been produced after the 15th day,~~
22 ~~up to ten thousand dollars (\$10,000), unless the health care facility~~
23 ~~is unable to provide the documents within this time period for good~~
24 ~~cause. This paragraph shall not require health care facilities to~~
25 ~~assist the board in obtaining the patient's authorization. The board~~
26 ~~shall pay the reasonable costs of copying the certified medical~~
27 ~~records, but shall not be required to make that payment prior to~~
28 ~~the production of the medical records.~~

29 ~~(b) (1) A licensee who fails or refuses to comply with a court~~
30 ~~order, issued in the enforcement of a subpoena, mandating the~~
31 ~~release of records to the board, shall pay to the board a civil penalty~~
32 ~~of up to one thousand dollars (\$1,000) per day for each day that~~
33 ~~the documents have not been produced after the date by which the~~
34 ~~court order requires the documents to be produced, up to ten~~
35 ~~thousand dollars (\$10,000), unless it is determined that the order~~
36 ~~is unlawful or invalid. Any statute of limitations applicable to the~~
37 ~~filing of an accusation by the board shall be tolled during the period~~
38 ~~the licensee is out of compliance with the court order and during~~
39 ~~any related appeals.~~

1 ~~(2) Any licensee who fails or refuses to comply with a court~~
2 ~~order, issued in the enforcement of a subpoena, mandating the~~
3 ~~release of records to a board is guilty of a misdemeanor punishable~~
4 ~~by a fine payable to the board not to exceed five thousand dollars~~
5 ~~(\$5,000). The fine shall be added to the licensee's renewal fee if~~
6 ~~it is not paid by the next succeeding renewal date. Any statute of~~
7 ~~limitations applicable to the filing of an accusation by the board~~
8 ~~shall be tolled during the period the licensee is out of compliance~~
9 ~~with the court order and during any related appeals.~~

10 ~~(3) A health care facility that fails or refuses to comply with a~~
11 ~~court order, issued in the enforcement of a subpoena, mandating~~
12 ~~the release of patient records to the board, that is accompanied by~~
13 ~~a notice citing this section and describing the penalties for failure~~
14 ~~to comply with this section, shall pay to the board a civil penalty~~
15 ~~of up to one thousand dollars (\$1,000) per day for each day that~~
16 ~~the documents have not been produced, up to ten thousand dollars~~
17 ~~(\$10,000), after the date by which the court order requires the~~
18 ~~documents to be produced, unless it is determined that the order~~
19 ~~is unlawful or invalid. Any statute of limitations applicable to the~~
20 ~~filing of an accusation by the board against a licensee shall be~~
21 ~~tolled during the period the health care facility is out of compliance~~
22 ~~with the court order and during any related appeals.~~

23 ~~(4) Any health care facility that fails or refuses to comply with~~
24 ~~a court order, issued in the enforcement of a subpoena, mandating~~
25 ~~the release of records to the board is guilty of a misdemeanor~~
26 ~~punishable by a fine payable to the board not to exceed five~~
27 ~~thousand dollars (\$5,000). Any statute of limitations applicable to~~
28 ~~the filing of an accusation by the board against a licensee shall be~~
29 ~~tolled during the period the health care facility is out of compliance~~
30 ~~with the court order and during any related appeals.~~

31 ~~(c) Multiple acts by a licensee in violation of subdivision (b)~~
32 ~~shall be punishable by a fine not to exceed five thousand dollars~~
33 ~~(\$5,000) or by imprisonment in a county jail not exceeding six~~
34 ~~months, or by both that fine and imprisonment. Multiple acts by~~
35 ~~a health care facility in violation of subdivision (b) shall be~~
36 ~~punishable by a fine not to exceed five thousand dollars (\$5,000),~~
37 ~~shall be reported to the State Department of Public Health, and~~
38 ~~shall be considered as grounds for disciplinary action with respect~~
39 ~~to licensure, including suspension or revocation of the license or~~
40 ~~certificate.~~

1 ~~(d) A failure or refusal of a licensee to comply with a court~~
2 ~~order, issued in the enforcement of a subpoena, mandating the~~
3 ~~release of records to the board constitutes unprofessional conduct~~
4 ~~and is grounds for suspension or revocation of his or her license.~~

5 ~~(e) Imposition of the civil penalties authorized by this section~~
6 ~~shall be in accordance with the Administrative Procedure Act~~
7 ~~(Chapter 5 (commencing with Section 11500) of Division 3 of~~
8 ~~Title 2 of the Government Code). Any civil penalties paid to, or~~
9 ~~received by, the board pursuant to this section shall be deposited~~
10 ~~into the fund administered by the board.~~

11 ~~(f) For purposes of this section, “certified medical records”~~
12 ~~means a copy of the patient’s medical records authenticated by the~~
13 ~~licensee or health care facility, as appropriate, on a form prescribed~~
14 ~~by the licensee’s board.~~

15 ~~(g) For purposes of this section, a “health care facility” means~~
16 ~~a clinic or health facility licensed or exempt from licensure~~
17 ~~pursuant to Division 2 (commencing with Section 1200) of the~~
18 ~~Health and Safety Code.~~

19 ~~(h) If a board complies with Section 1684.1, 2225.5, or 2969,~~
20 ~~that board shall not be subject to the requirements of this section.~~

21 ~~(i) This section shall not apply to a licensee who does not have~~
22 ~~access to, or control over, certified medical records or other types~~
23 ~~of documents that belong to or are controlled by a health facility~~
24 ~~or clinic.~~

25 ~~SEC. 69.~~

26 *SEC. 59.* Section 2661.15 is added to the Business and
27 Professions Code, to read:

28 2661.15. (a) Notwithstanding any other provision of law, any
29 employer of a licensee shall report to the board the suspension or
30 termination for cause, or any resignation in lieu of suspension or
31 termination for cause, of any licensee in its employ within 15
32 business days. The report shall not be made until after the
33 conclusion of the review process specified in Section 52.3 of Title
34 2 of the California Code of Regulations and *Skelly v. State*
35 *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This
36 required reporting shall not constitute a waiver of confidentiality
37 of medical records. The information reported or disclosed shall be
38 kept confidential except as provided in subdivision (c) of Section
39 800 and shall not be subject to discovery in civil cases.

1 (b) The information to be reported by the employer shall include
2 the name and license number of the licensee involved, a
3 description of the facts and circumstances of the suspension or
4 termination for cause, any resignation in lieu of suspension or
5 termination for cause, and any other relevant information deemed
6 appropriate by the employer.

7 (c) The board shall be entitled to inspect and copy the following
8 documents in the record for any suspension or termination for
9 cause, or any resignation in lieu of suspension or termination for
10 cause, resulting in action that is required to be reported pursuant
11 to this section:

12 (1) Any statement for suspension or termination of the licensee.

13 (2) Any document or exhibits relevant to the suspension or
14 termination.

15 (d) If, during the investigation by the board of the cause for the
16 termination or suspension or resignation of the licensee, it is found
17 that there has been a violation of existing state or federal law, the
18 board shall report the violation to the appropriate agency.

19 (e) For purposes of this section, “suspension or termination for
20 cause” or “resignation in lieu of suspension or termination for
21 cause” is defined as resignation, suspension, or termination from
22 employment for any of the following reasons:

23 (1) Use of controlled substances or alcohol to the extent that it
24 impairs the licensee’s ability to safely practice.

25 (2) Unlawful sale of a controlled substance or other prescription
26 items.

27 (3) Patient or client abuse, neglect, physical harm, or sexual
28 contact with a patient or client.

29 (4) Gross negligence or incompetence.

30 (5) Theft from a patient or client, any other employee, or the
31 employer.

32 (f) As used in this section, the following definitions apply:

33 (1) “Gross negligence” means a substantial departure from the
34 standard of care, which, under similar circumstances, would have
35 ordinarily been exercised by a competent licensee, and which has
36 or could have resulted in harm to the consumer. An exercise of so
37 slight a degree of care as to justify the belief that there was a
38 conscious disregard or indifference for the health, safety, or welfare
39 of the consumer shall be considered a substantial departure from
40 the standard of care.

1 (2) “Incompetence” means the lack of possession of, and the
2 failure to exercise that degree of learning, skill, care, and
3 experience ordinarily possessed by, a responsible licensee.

4 (3) “Willful” means a knowing and intentional violation of a
5 known legal duty.

6 (g) (1) Willful failure of an employer to make a report required
7 by this section is punishable by an administrative fine not to exceed
8 one hundred thousand dollars (\$100,000) per violation.

9 (2) Any failure of an employer, other than willful failure, to
10 make a report required by this section is punishable by an
11 administrative fine not to exceed fifty thousand dollars (\$50,000).

12 (h) The board shall investigate the circumstances underlying
13 any report received pursuant to this section within 30 days to
14 determine if an interim suspension order or temporary restraining
15 order should be issued. The board shall otherwise provide timely
16 disposition of the reports received pursuant to this section.

17 (i) The board shall send to the licentiate a copy of the report
18 along with the reasons for the filing of the report and notice
19 advising the licentiate of his or her right to submit additional
20 statements or other information to the board.

21 (j) Pursuant to Section 43.8 of the Civil Code, no person shall
22 incur any civil penalty as a result of making any report required
23 by this article.

24 (k) No report is required under this section where a report of
25 the action taken is already required under Section 805.

26 ~~SEC. 70:~~

27 *SEC. 60.* Section 2661.16 is added to the Business and
28 Professions Code, to read:

29 2661.16. Unless otherwise provided, on or after July 1, 2013
30 2014, the board shall post on its Internet Web site the following
31 information including the name and license number in its
32 possession, custody, or control regarding every licensee for which
33 whom the board licenses:

34 (a) With regard to the status of every license, whether or not
35 the licensee or former licensee is in good standing, subject to a
36 temporary restraining order, subject to an interim suspension order,
37 subject to a restriction or cease practice ordered pursuant to Section
38 23 of the Penal Code, or subject to any of the enforcement actions
39 described in Section 803.1.

1 (b) With regard to prior discipline of a licensee, whether or not
2 the licensee or former licensee has been subject to discipline by
3 the board or by the board of another state or jurisdiction, as
4 described in Section 803.1.

5 (c) Any felony conviction of a licensee reported to the board.

6 (d) All current accusations filed by the Attorney General,
7 including those accusations that are on appeal. For purposes of
8 this paragraph, “current accusation” means an accusation that has
9 not been dismissed, withdrawn, or settled, and has not been finally
10 decided upon by an administrative law judge and the board unless
11 an appeal of that decision is pending.

12 (e) Any malpractice judgment or arbitration award imposed
13 against a licensee and reported to the board.

14 (f) Any hospital disciplinary action imposed against a licensee
15 that resulted in the termination or revocation of a licensee’s hospital
16 staff privileges for a medical disciplinary cause or reason pursuant
17 to Section ~~2661.14~~ or 805.

18 (g) Any misdemeanor conviction of a licensee that results in a
19 disciplinary action or an accusation that is not subsequently
20 withdrawn or dismissed.

21 (h) Appropriate disclaimers and explanatory statements to
22 accompany the above information, including an explanation of
23 what types of information are not disclosed. These disclaimers and
24 statements shall be developed by the board and shall be adopted
25 by regulation.

26 (i) The information provided on the Internet shall be in
27 accordance with the California Public Records Act (Chapter 3.5
28 (commencing with Section 6250) of Division 7 of Title 1 of the
29 Government Code) and the Information Practices Act of 1977
30 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
31 4 of Division 3 of the Civil Code) and shall comply with the
32 Department of Consumer Affairs Guidelines for Access to Public
33 Records.

34 (j) Information provided on the Internet may not include
35 personal information, unless otherwise provided pursuant to this
36 chapter, including the home telephone number, date of birth, or
37 social security number. The information may not include the
38 licensee’s address, but may include the city and county of the
39 licensee’s address of record.

1 ~~SEC. 71.~~

2 *SEC. 61.* Section 2661.17 is added to the Business and
3 Professions Code, to read:

4 2661.17. (a) Unless otherwise provided, if a licensee possesses
5 a license or is otherwise authorized to practice in any state other
6 than California or by any agency of the federal government and
7 that license or authority is suspended or revoked outright, the
8 California license of the licensee shall be suspended automatically
9 for the duration of the suspension or revocation, unless terminated
10 or rescinded as provided in subdivision (c). The board shall notify
11 the licensee of the license suspension and of his or her right to
12 have the issue of penalty heard as provided in this section.

13 (b) Upon its own motion or for good cause shown, the board
14 may decline to impose or may set aside the suspension when it
15 appears to be in the interest of justice to do so, with due regard to
16 maintaining the integrity of, and confidence in, the specific healing
17 art.

18 (c) The issue of penalty shall be heard by an administrative law
19 judge sitting alone or with a panel of the board, in the discretion
20 of the board. A licensee may request a hearing on the penalty and
21 that hearing shall be held within 90 days from the date of the
22 request. If the order suspending or revoking the license or authority
23 to practice is overturned on appeal, any discipline ordered pursuant
24 to this section shall automatically cease. Upon a showing to the
25 administrative law judge or panel by the licensee that the
26 out-of-state action is not a basis for discipline in California, the
27 suspension shall be rescinded. If an accusation for permanent
28 discipline is not filed within 90 days of the suspension imposed
29 pursuant to this section, the suspension shall automatically
30 terminate.

31 (d) The record of the proceedings that resulted in the suspension
32 or revocation of the licensee's out-of-state license or authority to
33 practice, including a transcript of the testimony therein, may be
34 received in evidence.

35 (e) This section shall not apply to a licensee who maintains his
36 or her primary practice in California, as evidenced by having
37 maintained a practice in this state for not less than one year
38 immediately preceding the date of suspension or revocation.
39 Nothing in this section shall preclude a licensee's license from
40 being suspended pursuant to any other provision of law.

1 (f) This section shall not apply to a licensee whose license has
2 been surrendered, whose only discipline is a medical staff
3 disciplinary action at a federal hospital and not for medical
4 disciplinary cause or reason as that term is defined in Section 805,
5 or whose revocation or suspension has been stayed, even if the
6 licensee remains subject to terms of probation or other discipline.

7 (g) This section shall not apply to a suspension or revocation
8 imposed by a state that is based solely on the prior discipline of
9 the licensee by another state.

10 (h) The other provisions of this article setting forth a procedure
11 for the suspension or revocation of a licensee's license or certificate
12 shall not apply to summary suspensions issued pursuant to this
13 section. If a summary suspension has been issued pursuant to this
14 section, the licensee may request that the hearing on the penalty
15 conducted pursuant to subdivision (c) be held at the same time as
16 a hearing on the accusation.

17 ~~(i) A board that complies with Section 2310 shall not be subject~~
18 ~~to the requirements of this section.~~

19 *SEC. 62. Section 2662 of the Business and Professions Code*
20 *is amended to read:*

21 2662. (a) It is the intent of the Legislature that the board shall
22 seek ways and means to identify and rehabilitate physical therapists
23 and physical therapist assistants whose competency is impaired
24 due to abuse of dangerous drugs or alcohol so that they may be
25 treated and returned to the practice of physical therapy in a manner
26 which will not endanger the public health and safety.

27 (b) *It is the intent of the Legislature, through a request in 2013*
28 *from the Joint Legislative Audit Committee, that the Bureau of*
29 *State Audits conduct a thorough performance audit of the board's*
30 *diversion program to evaluate the effectiveness and efficiency of*
31 *the program, and make recommendations regarding the*
32 *continuation of the program and any changes or reforms required*
33 *to ensure that physical therapists and physical therapist assistants*
34 *participating in the program are appropriately monitored and that*
35 *the public is protected from physical therapists and physical*
36 *therapist assistants who are impaired due to alcohol or drug abuse*
37 *or mental or physical illness. The audit shall be completed by*
38 *January 1, 2014. The board and its staff shall cooperate with the*
39 *audit, and the board shall provide data, information, and case*
40 *files as requested by the auditor to perform all of his or her duties.*

1 *The provision of confidential data, information, and case files by*
2 *the board to the auditor shall not constitute a waiver of any*
3 *exemption from disclosure or discovery or of any confidentiality*
4 *protection or privilege otherwise provided by law that is applicable*
5 *to the data, information, or case files.*

6 *(c) It is the intent of the Legislature that the audit be paid for*
7 *with funds from the Physical Therapy Fund.*

8 *SEC. 63. Section 2673 is added to the Business and Professions*
9 *Code, to read:*

10 *2673. It is a public offense, punishable by a fine not to exceed*
11 *one hundred thousand dollars (\$100,000), by imprisonment in a*
12 *county jail not to exceed one year, or by both that fine and*
13 *imprisonment, for:*

14 *(a) Any person who does not hold a current and valid license*
15 *to practice physical therapy to engage in that practice.*

16 *(b) Any person to fraudulently buy, sell, or obtain a license to*
17 *practice physical therapy or to violate any provision of this*
18 *chapter.*

19 ~~SEC. 72.~~

20 *SEC. 64. Section 2766 is added to the Business and Professions*
21 *Code, to read:*

22 *2766. (a) The board may delegate to its executive officer the*
23 *authority to adopt a proposed default decision where an*
24 *administrative action to revoke a license has been filed and the*
25 *licensee has failed to file a notice of defense or to appear at the*
26 *hearing and a proposed default decision revoking the license has*
27 *been issued.*

28 *(b) The board may delegate to its executive officer the authority*
29 *to adopt a proposed settlement agreement where an administrative*
30 *action to revoke a license has been filed by the board and the*
31 *licensee has agreed to the revocation or surrender of his or her*
32 *license.*

33 *(c) The executive officer shall, at scheduled board meetings,*
34 *report to the board the number of proposed default decisions or*
35 *proposed settlement agreements adopted pursuant to this section.*

36 ~~SEC. 73.~~

37 *SEC. 65. Section 2766.1 is added to the Business and*
38 *Professions Code, to read:*

39 *2766.1. (a) Notwithstanding Section 11415.60 of the*
40 *Government Code, the board may enter into a settlement with a*

1 licensee or applicant in lieu of the issuance of an accusation or
2 statement of issues against that licensee or applicant, as applicable.

3 (b) The settlement shall include language identifying the factual
4 basis for the action being taken and a list of the statutes or
5 regulations violated.

6 (c) A person who enters *into* a settlement pursuant to this section
7 is not precluded from filing a petition, in the timeframe permitted
8 by law, to modify the terms of the settlement or petition for early
9 termination of probation, if probation is part of the settlement.

10 (d) Any settlement against a licensee executed pursuant to this
11 section shall be considered discipline and a public record and shall
12 be posted on the applicable board's Internet Web site. Any
13 settlement against an applicant executed pursuant to this section
14 shall be considered a public record and shall be posted on the
15 applicable board's Internet Web site.

16 (e) The executive officer shall, at scheduled board meetings,
17 report to the board the number of proposed settlement agreements
18 adopted pursuant to this section.

19 ~~SEC. 74.~~

20 *SEC. 66.* Section 2766.2 is added to the Business and
21 Professions Code, to read:

22 2766.2. (a) The license of a licensee shall be suspended
23 automatically during any time that the licensee is incarcerated after
24 conviction of a felony, regardless of whether the conviction has
25 been appealed. The board shall, immediately upon receipt of the
26 certified copy of the record of conviction, determine whether the
27 license of the licensee has been automatically suspended by virtue
28 of his or her incarceration, and if so, the duration of that
29 suspension. The board shall notify the licensee in writing of the
30 license suspension and of his or her right to elect to have the issue
31 of penalty heard as provided in subdivision (d).

32 (b) Upon receipt of the certified copy of the record of conviction,
33 if after a hearing before an administrative law judge from the Office
34 of Administrative Hearings it is determined that the felony for
35 which the licensee was convicted was substantially related to the
36 qualifications, functions, or duties of a licensee, the board shall
37 suspend the license until the time for appeal has elapsed, if no
38 appeal has been taken, or until the judgment of conviction has been
39 affirmed on appeal or has otherwise become final, and until further
40 order of the board.

(c) Notwithstanding subdivision (b), a conviction of a charge of violating any federal statute or regulation or any statute or regulation of this state, regulating dangerous drugs or controlled substances, or a conviction of Section 187, 261, 262, or 288 of the Penal Code, shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a licensee and no hearing shall be held on this issue. However, upon its own motion or for good cause shown, the board may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of, and confidence in, the practice regulated by the board.

(d) (1) Discipline may be ordered against a licensee in accordance with the statutes and regulations of the board when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge from the Office of Administrative Hearings. The hearing shall not be ~~had~~ *held* until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence; except that a licensee may, at his or her option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee so elects, the issue of penalty shall be heard in the manner described in subdivision (b) at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of a licensee. If the conviction of a licensee who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Nothing in this subdivision shall prohibit the board from pursuing disciplinary action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in a conviction, including a transcript of the testimony in those proceedings, may be received in evidence.

(f) Any other provision of law setting forth a procedure for the suspension or revocation of a license issued by the board shall not apply to proceedings conducted pursuant to this section.

~~SEC. 75.~~

SEC. 67. Section 2766.3 is added to the Business and Professions Code, to read:

2766.3. (a) Except as otherwise provided, any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee engaged in any act of sexual contact with a patient, as defined in subdivision (c) of Section 729, or any finding that the licensee has committed a sex offense, shall contain an order revoking the license. The proposed decision shall not contain any order staying the revocation of the licensee.

(b) As used in this section, the term ~~sex offense~~ “*sex offense*” shall mean any of the following:

(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

(2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1, or 647(a) or (d) of the Penal Code subdivisions (a) to (d), inclusive, of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d) of Section 647 of the Penal Code,~~ or a finding that a person committed such an act.

(3) Any attempt to commit any of the offenses specified in this section.

(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.

~~SEC. 76. Section 2766.4 is added to the Business and Professions Code, to read:~~

~~2766.4. (a) Except as otherwise provided, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, under military law, or under federal law, the board shall be subject to the following requirements:~~

~~(1) The board shall deny an application by the individual for licensure in accordance with the procedures set forth in Chapter~~

~~5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~(2) If the individual is licensed under this chapter, the board shall promptly revoke the license of the individual in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The board shall not stay the revocation and place the license on probation.~~

~~(3) The board shall not reinstate or reissue the individual's license. The board shall not issue a stay of license denial nor place the license on probation.~~

~~(b) This section shall not apply to any of the following:~~

~~(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender.~~

~~(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under Section 314 of the Penal Code.~~

~~(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2008. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.~~

~~SEC. 77. Section 2766.5 is added to the Business and Professions Code, to read:~~

~~2766.5. (a) Notwithstanding any other provision of law making a communication between a licensee and his or her patients a privileged communication, those provisions shall not apply to investigations or proceedings conducted by the board. Members of the board, deputies, employees, agents, the office of the Attorney General, and representatives of the board shall keep in confidence~~

1 during the course of investigations the names of any patients whose
2 records are reviewed and may not disclose or reveal those names,
3 except as is necessary during the course of an investigation, unless
4 and until proceedings are instituted. The authority under this
5 subdivision to examine records of patients in the office of a licensee
6 is limited to records of patients who have complained to the board
7 about that licensee.

8 (b) ~~Notwithstanding any other provision of law, the Attorney~~
9 ~~General and his or her investigative agents, and the board and its~~
10 ~~investigators and representatives may inquire into any alleged~~
11 ~~violation of the laws under the jurisdiction of the board or any~~
12 ~~other federal or state law, regulation, or rule relevant to the practice~~
13 ~~regulated by the board, whichever is applicable, and may inspect~~
14 ~~documents relevant to those investigations in accordance with the~~
15 ~~following procedures:~~

16 (1) ~~Any document relevant to an investigation may be inspected,~~
17 ~~and copies may be obtained, where a patient provides written~~
18 ~~authorization.~~

19 (2) ~~Any document relevant to the business operations of a~~
20 ~~licensee, and not involving medical records attributable to~~
21 ~~identifiable patients, may be inspected and copied where relevant~~
22 ~~to an investigation of a licensee.~~

23 (c) ~~In all cases where documents are inspected or copies of those~~
24 ~~documents are received, their acquisition or review shall be~~
25 ~~arranged so as not to unnecessarily disrupt the medical and business~~
26 ~~operations of the licensee or of the facility where the records are~~
27 ~~kept or used.~~

28 (d) ~~Where certified documents are lawfully requested from~~
29 ~~licensees in accordance with this section by the Attorney General~~
30 ~~or his or her agents or deputies, or investigators of any board, the~~
31 ~~documents shall be provided within 10 business days of receipt of~~
32 ~~the request, unless the licensee is unable to provide the certified~~
33 ~~documents within this time period for good cause, including, but~~
34 ~~not limited to, physical inability to access the records in the time~~
35 ~~allowed due to illness or travel. Failure to produce requested~~
36 ~~certified documents or copies thereof, after being informed of the~~
37 ~~required deadline, shall constitute unprofessional conduct. A board~~
38 ~~may use its authority to cite and fine a licensee for any violation~~
39 ~~of this section. This remedy is in addition to any other authority~~

1 of the board to sanction a licensee for a delay in producing
2 requested records.

3 (e) Searches conducted of the office or medical facility of any
4 licensee shall not interfere with the recordkeeping format or
5 preservation needs of any licensee necessary for the lawful care
6 of patients.

7 (f) The licensee shall cooperate with the board in furnishing
8 information or assistance as may be required, including, but not
9 limited to, participation in an interview with investigators or
10 representatives of the board.

11 (g) This section shall not apply to a licensee who does not have
12 access to, and control over, certified medical records or other types
13 of documents that belong to or are controlled by a health facility
14 or clinic.

15 SEC. 78. Section 2766.6 is added to the Business and
16 Professions Code, to read:

17 2766.6. (a) (1) Notwithstanding any other provision of law,
18 a licensee who fails or refuses to comply with a request for the
19 certified medical records of a patient that is accompanied by that
20 patient's written authorization for release of records to a board
21 together with a notice citing this section and describing the
22 penalties for failure to comply with this section shall be required
23 to pay to the board a civil penalty of up to one thousand dollars
24 (\$1,000) per day for each day that the documents have not been
25 produced after the 15th day, up to ten thousand dollars (\$10,000);
26 unless the licensee is unable to provide the documents within this
27 time period for good cause.

28 (2) A health care facility shall comply with a request for the
29 certified medical records of a patient that is accompanied by that
30 patient's written authorization for release of records to a board
31 together with a notice citing this section and describing the
32 penalties for failure to comply with this section. Failure to provide
33 the authorizing patient's certified medical records to the board
34 within 15 days of receiving the request, authorization, and notice
35 shall subject the health care facility to a civil penalty, payable to
36 the board, of up to one thousand dollars (\$1,000) per day for each
37 day that the documents have not been produced after the 15th day,
38 up to ten thousand dollars (\$10,000), unless the health care facility
39 is unable to provide the documents within this time period for good
40 cause. This paragraph shall not require health care facilities to

1 assist the board in obtaining the patient's authorization. The board
2 shall pay the reasonable costs of copying the certified medical
3 records, but shall not be required to make that payment prior to
4 the production of the medical records.

5 (b) (1) A licensee who fails or refuses to comply with a court
6 order, issued in the enforcement of a subpoena, mandating the
7 release of records to the board, shall pay to the board a civil penalty
8 of up to one thousand dollars (\$1,000) per day for each day that
9 the documents have not been produced after the date by which the
10 court order requires the documents to be produced, up to ten
11 thousand dollars (\$10,000), unless it is determined that the order
12 is unlawful or invalid. Any statute of limitations applicable to the
13 filing of an accusation by the board shall be tolled during the period
14 the licensee is out of compliance with the court order and during
15 any related appeals.

16 (2) Any licensee who fails or refuses to comply with a court
17 order, issued in the enforcement of a subpoena, mandating the
18 release of records to a board is guilty of a misdemeanor punishable
19 by a fine payable to the board not to exceed five thousand dollars
20 (\$5,000). The fine shall be added to the licensee's renewal fee if
21 it is not paid by the next succeeding renewal date. Any statute of
22 limitations applicable to the filing of an accusation by the board
23 shall be tolled during the period the licensee is out of compliance
24 with the court order and during any related appeals.

25 (3) A health care facility that fails or refuses to comply with a
26 court order, issued in the enforcement of a subpoena, mandating
27 the release of patient records to the board, that is accompanied by
28 a notice citing this section and describing the penalties for failure
29 to comply with this section, shall pay to the board a civil penalty
30 of up to one thousand dollars (\$1,000) per day for each day that
31 the documents have not been produced, up to ten thousand dollars
32 (\$10,000), after the date by which the court order requires the
33 documents to be produced, unless it is determined that the order
34 is unlawful or invalid. Any statute of limitations applicable to the
35 filing of an accusation by the board against a licensee shall be
36 tolled during the period the health care facility is out of compliance
37 with the court order and during any related appeals.

38 (4) Any health care facility that fails or refuses to comply with
39 a court order, issued in the enforcement of a subpoena, mandating
40 the release of records to the board is guilty of a misdemeanor

1 punishable by a fine payable to the board not to exceed five
2 thousand dollars (\$5,000). Any statute of limitations applicable to
3 the filing of an accusation by the healing arts board against a
4 licensee shall be tolled during the period the health care facility is
5 out of compliance with the court order and during any related
6 appeals.

7 (e) Multiple acts by a licensee in violation of subdivision (b)
8 shall be punishable by a fine not to exceed five thousand dollars
9 (\$5,000) or by imprisonment in a county jail not exceeding six
10 months, or by both that fine and imprisonment. Multiple acts by
11 a health care facility in violation of subdivision (b) shall be
12 punishable by a fine not to exceed five thousand dollars (\$5,000),
13 shall be reported to the State Department of Public Health, and
14 shall be considered as grounds for disciplinary action with respect
15 to licensure, including suspension or revocation of the license or
16 certificate.

17 (d) A failure or refusal of a licensee to comply with a court
18 order, issued in the enforcement of a subpoena, mandating the
19 release of records to the board constitutes unprofessional conduct
20 and is grounds for suspension or revocation of his or her license.

21 (e) Imposition of the civil penalties authorized by this section
22 shall be in accordance with the Administrative Procedure Act
23 (Chapter 5 (commencing with Section 11500) of Division 3 of
24 Title 2 of the Government Code). Any civil penalties paid to, or
25 received by, the board pursuant to this section shall be deposited
26 into the fund administered by the board.

27 (f) For purposes of this section, “certified medical records”
28 means a copy of the patient’s medical records authenticated by the
29 licensee or health care facility, as appropriate, on a form prescribed
30 by the licensee’s board.

31 (g) For purposes of this section, a “health care facility” means
32 a clinic or health facility licensed or exempt from licensure
33 pursuant to Division 2 (commencing with Section 1200) of the
34 Health and Safety Code.

35 (h) If a board complies with Section 1684.1, 2225.5, or 2969,
36 that board shall not be subject to the requirements of this section.

37 (i) This section shall not apply to a licensee who does not have
38 access to, or control over, certified medical records or other types
39 of documents that belong to or are controlled by a health facility
40 or clinic.

~~SEC. 79.~~

SEC. 68. Section 2766.7 is added to the Business and Professions Code, to read:

2766.7. (a) Unless otherwise provided, on or after July 1, 2013 2014, the board shall post on the Internet the following information, including the name and license number, in its possession, custody, or control regarding every licensee ~~for which~~ whom the board licenses:

(1) With regard to the status of every license, whether or not the licensee or former licensee is in good standing, subject to a temporary restraining order, subject to an interim suspension order, subject to a restriction or cease practice ordered pursuant to Section 23 of the Penal Code, or subject to any of the enforcement actions described in Section 803.1.

(2) With regard to prior discipline of a licensee, whether or not the licensee or former licensee has been subject to discipline by the board or by the board of another state or jurisdiction, as described in Section 803.1.

(3) Any felony conviction of a licensee reported to the board.

(4) All current accusations filed by the Attorney General, including those accusations that are on appeal. For purposes of this paragraph, “current accusation” means an accusation that has not been dismissed, withdrawn, or settled, and has not been finally decided upon by an administrative law judge and the board unless an appeal of that decision is pending.

~~(5) Any malpractice judgment or arbitration award imposed against a licensee and reported to the healing arts board.~~

~~(6)~~

(5) Any misdemeanor conviction of a licensee that results in a disciplinary action or an accusation that is not subsequently withdrawn or dismissed.

~~(7)~~

(6) Appropriate disclaimers and explanatory statements to accompany the above information, including an explanation of what types of information are not disclosed. These disclaimers and statements shall be developed by the healing arts board and shall be adopted by regulation.

(b) The information provided on the Internet shall be in accordance with the California Public Records Act (Chapter 3.5 commencing with Section 6250) of Division 7 of Title 1 of the

Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records.

(c) Information provided on the Internet may not include personal information, unless otherwise provided pursuant to this chapter, including the home telephone number, date of birth, or social security number. The information may not include the licensee's address, nor the city and county of the licensee's address of record.

~~SEC. 80.~~

SEC. 69. Section 2766.8 is added to the Business and Professions Code, to read:

2766.8. (a) Unless otherwise provided, if a licensee possesses a license or is otherwise authorized to practice in any state other than California or by any agency of the federal government and that license or authority is suspended or revoked outright, the California license of the licensee shall be suspended automatically for the duration of the suspension or revocation, unless terminated or rescinded as provided in subdivision (c). The healing arts board shall notify the licensee of the license suspension and of his or her right to have the issue of penalty heard as provided in this section.

(b) Upon its own motion or for good cause shown, the board may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of, and confidence in, the specific healing art.

(c) The issue of penalty shall be heard by an administrative law judge sitting alone or with a panel of the board, in the discretion of the board. A licensee may request a hearing on the penalty and that hearing shall be held within 90 days from the date of the request. If the order suspending or revoking the license or authority to practice is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Upon a showing to the administrative law judge or panel by the licensee that the out-of-state action is not a basis for discipline in California, the suspension shall be rescinded. If an accusation for permanent discipline is not filed within 90 days of the suspension imposed

1 pursuant to this section, the suspension shall automatically
2 terminate.

3 (d) The record of the proceedings that resulted in the suspension
4 or revocation of the licensee's out-of-state license or authority to
5 practice, including a transcript of the testimony therein, may be
6 received in evidence.

7 (e) This section shall not apply to a licensee who maintains his
8 or her primary practice in California, as evidenced by having
9 maintained a practice in this state for not less than one year
10 immediately preceding the date of suspension or revocation.
11 Nothing in this section shall preclude a licensee's license from
12 being suspended pursuant to any other provision of law.

13 (f) This section shall not apply to a licensee whose license has
14 been surrendered, whose only discipline is a medical staff
15 disciplinary action at a federal hospital and not for medical
16 disciplinary cause or reason as that term is defined in Section 805,
17 or whose revocation or suspension has been stayed, even if the
18 licensee remains subject to terms of probation or other discipline.

19 (g) This section shall not apply to a suspension or revocation
20 imposed by a state that is based solely on the prior discipline of
21 the licensee by another state.

22 (h) The other provisions of this article setting forth a procedure
23 for the suspension or revocation of a licensee's license or certificate
24 shall not apply to summary suspensions issued pursuant to this
25 section. If a summary suspension has been issued pursuant to this
26 section, the licensee may request that the hearing on the penalty
27 conducted pursuant to subdivision (c) be held at the same time as
28 a hearing on the accusation.

29 ~~(i) A board that complies with Section 2310 shall not be subject~~
30 ~~to the requirements of this section.~~

31 *SEC. 70. Section 2770 of the Business and Professions Code*
32 *is amended to read:*

33 2770. (a) It is the intent of the Legislature that the Board of
34 Registered Nursing seek ways and means to identify and
35 rehabilitate registered nurses whose competency may be impaired
36 due to abuse of alcohol and other drugs, or due to mental illness
37 so that registered nurses so afflicted may be rehabilitated and
38 returned to the practice of nursing in a manner which will not
39 endanger the public health and safety. It is also the intent of the
40 Legislature that the Board of Registered Nursing shall implement

1 this legislation by establishing a diversion program as a voluntary
2 alternative to traditional disciplinary actions.

3 *(b) It is the intent of the Legislature, through a request in 2013*
4 *from the Joint Legislative Audit Committee, that the Bureau of*
5 *State Audits conduct a thorough performance audit of the board's*
6 *diversion program to evaluate the effectiveness and efficiency of*
7 *the program, and make recommendations regarding the*
8 *continuation of the program and any changes or reforms required*
9 *to ensure that registered nurses participating in the program are*
10 *appropriately monitored and that the public is protected from*
11 *registered nurses who are impaired due to alcohol or drug abuse*
12 *or mental or physical illness. The audit shall be completed by*
13 *January 1, 2014. The board and its staff shall cooperate with the*
14 *audit, and the board shall provide data, information, and case*
15 *files as requested by the auditor to perform all of his or her duties.*
16 *The provision of confidential data, information, and case files by*
17 *the board to the auditor shall not constitute a waiver of any*
18 *exemption from disclosure or discovery or of any confidentiality*
19 *protection or privilege otherwise provided by law that is applicable*
20 *to the data, information, or case files.*

21 *(c) It is the intent of the Legislature that the audit be paid for*
22 *with funds from the Board of Registered Nursing Fund.*

23 SEC. 71. Section 2799.2 is added to the Business and
24 Professions Code, to read:

25 2799.2. Notwithstanding any other provision of law, it is a
26 public offense, punishable by a fine not to exceed one hundred
27 thousand dollars (\$100,000), by imprisonment in a county jail not
28 to exceed one year, or by both that fine and imprisonment, for:

29 (a) Any person who does not hold a current and valid license
30 to practice registered nursing to engage in that practice.

31 (b) Any person to fraudulently buy, sell, or obtain a license to
32 practice registered nursing or to violate any provision of this
33 chapter.

34 ~~SEC. 81.~~

35 SEC. 72. Section 2879.1 is added to the Business and
36 Professions Code, to read:

37 2879.1. (a) The board may delegate to its executive officer
38 the authority to adopt a proposed default decision where an
39 administrative action to revoke a license has been filed and the
40 licensee has failed to file a notice of defense or to appear at the

1 hearing and a proposed default decision revoking the license has
2 been issued.

3 (b) The board may delegate to its executive officer the authority
4 to adopt a proposed settlement agreement where an administrative
5 action to revoke a license has been filed by the board and the
6 licensee has agreed to the revocation or surrender of his or her
7 license.

8 (c) The executive officer shall, at scheduled board meetings,
9 report to the board the number of proposed default decisions or
10 proposed settlement agreements adopted pursuant to this section.

11 ~~SEC. 82.~~

12 *SEC. 73.* Section 2879.2 is added to the Business and
13 Professions Code, to read:

14 2879.2. (a) Notwithstanding Section 11415.60 of the
15 Government Code, the board may enter into a settlement with a
16 licensee or applicant in lieu of the issuance of an accusation or
17 statement of issues against that licensee or applicant, as applicable.

18 (b) The settlement shall include language identifying the factual
19 basis for the action being taken and a list of the statutes or
20 regulations violated.

21 (c) A person who enters *into* a settlement pursuant to this section
22 is not precluded from filing a petition, in the timeframe permitted
23 by law, to modify the terms of the settlement or petition for early
24 termination of probation, if probation is part of the settlement.

25 (d) Any settlement against a licensee executed pursuant to this
26 section shall be considered discipline and a public record and shall
27 be posted on the applicable board's Internet Web site. Any
28 settlement against an applicant executed pursuant to this section
29 shall be considered a public record and shall be posted on the
30 applicable board's Internet Web site.

31 (e) The executive officer shall, at scheduled board meetings,
32 report to the board the number of proposed settlement agreements
33 adopted pursuant to this section.

34 ~~SEC. 83.~~

35 *SEC. 74.* Section 2879.3 is added to the Business and
36 Professions Code, to read:

37 2879.3. (a) The license of a licensee shall be suspended
38 automatically during any time that the licensee is incarcerated after
39 conviction of a felony, regardless of whether the conviction has
40 been appealed. The board shall, immediately upon receipt of the

1 certified copy of the record of conviction, determine whether the
2 license of the licensee has been automatically suspended by virtue
3 of his or her incarceration, and if so, the duration of that
4 suspension. The board shall notify the licensee in writing of the
5 license suspension and of his or her right to elect to have the issue
6 of penalty heard as provided in subdivision (d).

7 (b) Upon receipt of the certified copy of the record of conviction,
8 if after a hearing before an administrative law judge from the Office
9 of Administrative Hearings it is determined that the felony for
10 which the licensee was convicted was substantially related to the
11 qualifications, functions, or duties of a licensee, the board shall
12 suspend the license until the time for appeal has elapsed, if no
13 appeal has been taken, or until the judgment of conviction has been
14 affirmed on appeal or has otherwise become final, and until further
15 order of the board.

16 (c) Notwithstanding subdivision (b), a conviction of a charge
17 of violating any federal statute or regulation or any statute or
18 regulation of this state, regulating dangerous drugs or controlled
19 substances, or a conviction of Section 187, 261, 262, or 288 of the
20 Penal Code, shall be conclusively presumed to be substantially
21 related to the qualifications, functions, or duties of a licensee and
22 no hearing shall be held on this issue. However, upon its own
23 motion or for good cause shown, the board may decline to impose
24 or may set aside the suspension when it appears to be in the interest
25 of justice to do so, with due regard to maintaining the integrity of,
26 and confidence in, the practice regulated by the board.

27 (d) (1) Discipline may be ordered against a licensee in
28 accordance with the statutes and regulations of the board when the
29 time for appeal has elapsed, the judgment of conviction has been
30 affirmed on appeal, or an order granting probation is made
31 suspending the imposition of sentence, irrespective of a subsequent
32 order under Section 1203.4 of the Penal Code allowing the person
33 to withdraw his or her plea of guilty and to enter a plea of not
34 guilty, setting aside the verdict of guilty, or dismissing the
35 accusation, complaint, information, or indictment.

36 (2) The issue of penalty shall be heard by an administrative law
37 judge from the Office of Administrative Hearings. The hearing
38 shall not be ~~had~~ held until the judgment of conviction has become
39 final or, irrespective of a subsequent order under Section 1203.4
40 of the Penal Code, an order granting probation has been made

1 suspending the imposition of sentence; except that a licensee may,
2 at his or her option, elect to have the issue of penalty decided before
3 those time periods have elapsed. Where the licensee so elects, the
4 issue of penalty shall be heard in the manner described in
5 subdivision (b) at the hearing to determine whether the conviction
6 was substantially related to the qualifications, functions, or duties
7 of a licensee. If the conviction of a licensee who has made this
8 election is overturned on appeal, any discipline ordered pursuant
9 to this section shall automatically cease. Nothing in this subdivision
10 shall prohibit the board from pursuing disciplinary action based
11 on any cause other than the overturned conviction.

12 (e) The record of the proceedings resulting in a conviction,
13 including a transcript of the testimony in those proceedings, may
14 be received in evidence.

15 (f) Any other provision of law setting forth a procedure for the
16 suspension or revocation of a license issued by the board shall not
17 apply to proceedings conducted pursuant to this section.

18 ~~SEC. 84.~~

19 *SEC. 75.* Section 2879.4 is added to the Business and
20 Professions Code, to read:

21 2879.4. (a) Except as otherwise provided, any proposed
22 decision or decision issued in accordance with the procedures set
23 forth in Chapter 5 (commencing with Section 11500) of Part 1 of
24 Division 3 of Title 2 of the Government Code, that contains any
25 finding of fact that the licensee engaged in any act of sexual contact
26 with a patient, as defined in subdivision (c) of Section 729, or any
27 finding that the licensee has committed a sex offense, shall contain
28 an order revoking the license. The proposed decision shall not
29 contain any order staying the revocation of the licensee.

30 (b) As used in this section, the term ~~sex offense~~ “sex offense”
31 shall mean any of the following:

32 (1) Any offense for which registration is required by Section
33 290 of the Penal Code or a finding that a person committed such
34 an act.

35 (2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1,~~
36 ~~or 647(a) or (d) of the Penal Code~~ *subdivisions (a) to (d), inclusive,*
37 *of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d)*
38 *of Section 647 of the Penal Code*, or a finding that a person
39 committed such an act.

1 (3) Any attempt to commit any of the offenses specified in this
2 section.

3 (4) Any offense committed or attempted in any other state or
4 against the laws of the United States which, if committed or
5 attempted in this state, would have been punishable as one or more
6 of the offenses specified in this section.

7 ~~SEC. 85.—Section 2879.5 is added to the Business and~~
8 ~~Professions Code, to read:~~

9 ~~2879.5. (a) Except as otherwise provided, with regard to an~~
10 ~~individual who is required to register as a sex offender pursuant~~
11 ~~to Section 290 of the Penal Code, or the equivalent in another state~~
12 ~~or territory, under military law, or under federal law, the board~~
13 ~~shall be subject to the following requirements:~~

14 ~~(1) The board shall deny an application by the individual for~~
15 ~~licensure in accordance with the procedures set forth in Chapter~~
16 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
17 ~~Title 2 of the Government Code.~~

18 ~~(2) If the individual is licensed under this chapter, the board~~
19 ~~shall promptly revoke the license of the individual in accordance~~
20 ~~with the procedures set forth in Chapter 5 (commencing with~~
21 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
22 ~~Code. The board shall not stay the revocation and place the license~~
23 ~~on probation.~~

24 ~~(3) The board shall not reinstate or reissue the individual's~~
25 ~~license. The board shall not issue a stay of license denial nor place~~
26 ~~the license on probation.~~

27 ~~(b) This section shall not apply to any of the following:~~

28 ~~(1) An individual who has been relieved under Section 290.5~~
29 ~~of the Penal Code of his or her duty to register as a sex offender,~~
30 ~~or whose duty to register has otherwise been formally terminated~~
31 ~~under California law or the law of the jurisdiction that requires his~~
32 ~~or her registration as a sex offender.~~

33 ~~(2) An individual who is required to register as a sex offender~~
34 ~~pursuant to Section 290 of the Penal Code solely because of a~~
35 ~~misdemeanor conviction under Section 314 of the Penal Code.~~
36 ~~However, nothing in this paragraph shall prohibit the board from~~
37 ~~exercising its discretion to discipline a licensee under any other~~
38 ~~provision of state law based upon the licensee's conviction under~~
39 ~~Section 314 of the Penal Code.~~

1 ~~(3) Any administrative adjudication proceeding under Chapter~~
2 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
3 ~~Title 2 of the Government Code that is fully adjudicated prior to~~
4 ~~January 1, 2008. A petition for reinstatement of a revoked or~~
5 ~~surrendered license shall be considered a new proceeding for~~
6 ~~purposes of this paragraph, and the prohibition against reinstating~~
7 ~~a license to an individual who is required to register as a sex~~
8 ~~offender shall be applicable.~~

9 ~~SEC. 86. Section 2879.6 is added to the Business and~~
10 ~~Professions Code, to read:~~

11 ~~2879.6. (a) Notwithstanding any other provision of law making~~
12 ~~a communication between a licensee and his or her patients a~~
13 ~~privileged communication, those provisions shall not apply to~~
14 ~~investigations or proceedings conducted by the board. Members~~
15 ~~of the board, deputies, employees, agents, the office of the Attorney~~
16 ~~General, and representatives of the board shall keep in confidence~~
17 ~~during the course of investigations the names of any patients whose~~
18 ~~records are reviewed and may not disclose or reveal those names,~~
19 ~~except as is necessary during the course of an investigation, unless~~
20 ~~and until proceedings are instituted. The authority under this~~
21 ~~subdivision to examine records of patients in the office of a licensee~~
22 ~~is limited to records of patients who have complained to the board~~
23 ~~about that licensee.~~

24 ~~(b) Notwithstanding any other provision of law, the Attorney~~
25 ~~General and his or her investigative agents, and the board and its~~
26 ~~investigators and representatives may inquire into any alleged~~
27 ~~violation of the laws under the jurisdiction of the board or any~~
28 ~~other federal or state law, regulation, or rule relevant to the practice~~
29 ~~regulated by the board, whichever is applicable, and may inspect~~
30 ~~documents relevant to those investigations in accordance with the~~
31 ~~following procedures:~~

32 ~~(1) Any document relevant to an investigation may be inspected,~~
33 ~~and copies may be obtained, where a patient provides written~~
34 ~~authorization.~~

35 ~~(2) Any document relevant to the business operations of a~~
36 ~~licensee, and not involving medical records attributable to~~
37 ~~identifiable patients, may be inspected and copied where relevant~~
38 ~~to an investigation of a licensee.~~

39 ~~(c) In all cases where documents are inspected or copies of those~~
40 ~~documents are received, their acquisition or review shall be~~

1 arranged so as not to unnecessarily disrupt the medical and business
2 operations of the licensee or of the facility where the records are
3 kept or used.

4 ~~(d) Where certified documents are lawfully requested from~~
5 ~~licensees in accordance with this section by the Attorney General~~
6 ~~or his or her agents or deputies, or investigators of any board, the~~
7 ~~documents shall be provided within 10 business days of receipt of~~
8 ~~the request, unless the licensee is unable to provide the certified~~
9 ~~documents within this time period for good cause, including, but~~
10 ~~not limited to, physical inability to access the records in the time~~
11 ~~allowed due to illness or travel. Failure to produce requested~~
12 ~~certified documents or copies thereof, after being informed of the~~
13 ~~required deadline, shall constitute unprofessional conduct. A board~~
14 ~~may use its authority to cite and fine a licensee for any violation~~
15 ~~of this section. This remedy is in addition to any other authority~~
16 ~~of the board to sanction a licensee for a delay in producing~~
17 ~~requested records.~~

18 ~~(e) Searches conducted of the office or medical facility of any~~
19 ~~licensee shall not interfere with the recordkeeping format or~~
20 ~~preservation needs of any licensee necessary for the lawful care~~
21 ~~of patients.~~

22 ~~(f) The licensee shall cooperate with the board in furnishing~~
23 ~~information or assistance as may be required, including, but not~~
24 ~~limited to, participation in an interview with investigators or~~
25 ~~representatives of the board.~~

26 ~~(g) This section shall not apply to a licensee who does not have~~
27 ~~access to, and control over, certified medical records or other types~~
28 ~~of documents that belong to or are controlled by a health facility~~
29 ~~or clinic.~~

30 ~~SEC. 87. Section 2879.7 is added to the Business and~~
31 ~~Professions Code, to read:~~

32 ~~2879.7. (a) (1) Notwithstanding any other provision of law,~~
33 ~~a licensee who fails or refuses to comply with a request for the~~
34 ~~certified medical records of a patient that is accompanied by that~~
35 ~~patient's written authorization for release of records to a board~~
36 ~~together with a notice citing this section and describing the~~
37 ~~penalties for failure to comply with this section shall be required~~
38 ~~to pay to the board a civil penalty of up to one thousand dollars~~
39 ~~(\$1,000) per day for each day that the documents have not been~~
40 ~~produced after the 15th day, up to ten thousand dollars (\$10,000),~~

1 unless the licensee is unable to provide the documents within this
2 time period for good cause.

3 ~~(2) A health care facility shall comply with a request for the~~
4 ~~certified medical records of a patient that is accompanied by that~~
5 ~~patient's written authorization for release of records to a board~~
6 ~~together with a notice citing this section and describing the~~
7 ~~penalties for failure to comply with this section. Failure to provide~~
8 ~~the authorizing patient's certified medical records to the board~~
9 ~~within 15 days of receiving the request, authorization, and notice~~
10 ~~shall subject the health care facility to a civil penalty, payable to~~
11 ~~the healing arts board, of up to one thousand dollars (\$1,000) per~~
12 ~~day for each day that the documents have not been produced after~~
13 ~~the 15th day, up to ten thousand dollars (\$10,000), unless the health~~
14 ~~care facility is unable to provide the documents within this time~~
15 ~~period for good cause. This paragraph shall not require health care~~
16 ~~facilities to assist the board in obtaining the patient's authorization.~~
17 ~~The board shall pay the reasonable costs of copying the certified~~
18 ~~medical records, but shall not be required to make that payment~~
19 ~~prior to the production of the medical records.~~

20 ~~(b) (1) A licensee who fails or refuses to comply with a court~~
21 ~~order, issued in the enforcement of a subpoena, mandating the~~
22 ~~release of records to the board, shall pay to the board a civil penalty~~
23 ~~of up to one thousand dollars (\$1,000) per day for each day that~~
24 ~~the documents have not been produced after the date by which the~~
25 ~~court order requires the documents to be produced, up to ten~~
26 ~~thousand dollars (\$10,000), unless it is determined that the order~~
27 ~~is unlawful or invalid. Any statute of limitations applicable to the~~
28 ~~filing of an accusation by the healing arts board shall be tolled~~
29 ~~during the period the licensee is out of compliance with the court~~
30 ~~order and during any related appeals.~~

31 ~~(2) Any licensee who fails or refuses to comply with a court~~
32 ~~order, issued in the enforcement of a subpoena, mandating the~~
33 ~~release of records to a board is guilty of a misdemeanor punishable~~
34 ~~by a fine payable to the board not to exceed five thousand dollars~~
35 ~~(\$5,000). The fine shall be added to the licensee's renewal fee if~~
36 ~~it is not paid by the next succeeding renewal date. Any statute of~~
37 ~~limitations applicable to the filing of an accusation by the board~~
38 ~~shall be tolled during the period the licensee is out of compliance~~
39 ~~with the court order and during any related appeals.~~

~~(3) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of patient records to the board, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the board a civil penalty of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced, up to ten thousand dollars (\$10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.~~

~~(4) Any health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars (\$5,000). Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.~~

~~(e) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000); shall be reported to the State Department of Public Health, and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate.~~

~~(d) A failure or refusal of a licensee to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.~~

~~(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code). Any civil penalties paid to, or~~

received by, the board pursuant to this section shall be deposited into the fund administered by the board.

(f) For purposes of this section, “certified medical records” means a copy of the patient’s medical records authenticated by the licensee or health care facility, as appropriate, on a form prescribed by the licensee’s board.

(g) For purposes of this section, a “health care facility” means a clinic or health facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(h) If a board complies with Section 1684.1, 2225.5, or 2969, that board shall not be subject to the requirements of this section.

(i) This section shall not apply to a licensee who does not have access to, or control over, certified medical records or other types of documents that belong to or are controlled by a health facility or clinic.

SEC. 88.

SEC. 76. Section 2879.8 is added to the Business and Professions Code, to read:

2879.8. Unless otherwise provided, on or after July 1, 2013, the board shall post on its Internet Web site the following information, including the name and license number, in its possession, custody, or control regarding every licensee for whom the board licenses:

(a) With regard to the status of every license, whether or not the licensee or former licensee is in good standing, subject to a temporary restraining order, subject to an interim suspension order, subject to a restriction or cease practice ordered pursuant to Section 23 of the Penal Code, or subject to any of the enforcement actions described in Section 803.1.

(b) With regard to prior discipline of a licensee, whether or not the licensee or former licensee has been subject to discipline by the board or by the board of another state or jurisdiction, as described in Section 803.1.

(c) Any felony conviction of a licensee reported to the board.

(d) All current accusations filed by the Attorney General, including those accusations that are on appeal. For purposes of this paragraph, “current accusation” means an accusation that has not been dismissed, withdrawn, or settled, and has not been finally

1 decided upon by an administrative law judge and the board unless
2 an appeal of that decision is pending.

3 (e) Any malpractice judgment or arbitration award imposed
4 against a licensee and reported to the board.

5 (f) Any hospital disciplinary action imposed against a licensee
6 that resulted in the termination or revocation of a licensee's hospital
7 staff privileges for a medical disciplinary cause or reason pursuant
8 to Section ~~2879.7~~ or 805.

9 (g) Any misdemeanor conviction of a licensee that results in a
10 disciplinary action or an accusation that is not subsequently
11 withdrawn or dismissed.

12 (h) Appropriate disclaimers and explanatory statements to
13 accompany the above information, including an explanation of
14 what types of information are not disclosed. These disclaimers and
15 statements shall be developed by the board and shall be adopted
16 by regulation.

17 (i) The information provided on the Internet shall be in
18 accordance with the California Public Records Act (Chapter 3.5
19 (commencing with Section 6250) of Division 7 of Title 1 of the
20 Government Code) and the Information Practices Act of 1977
21 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
22 4 of Division 3 of the Civil Code) and shall comply with the
23 Department of Consumer Affairs Guidelines for Access to Public
24 Records.

25 (j) Information provided on the Internet may not include
26 personal information, unless otherwise provided pursuant to this
27 chapter, including the home telephone number, date of birth, or
28 social security number. The information may not include the
29 licensee's address, but may include the city and county of the
30 licensee's address of record.

31 ~~SEC. 89.~~

32 *SEC. 77.* Section 2879.10 is added to the Business and
33 Professions Code, to read:

34 2879.10. (a) Unless otherwise provided, if a licensee possesses
35 a license or is otherwise authorized to practice in any state other
36 than California or by any agency of the federal government and
37 that license or authority is suspended or revoked outright, the
38 California license of the licensee shall be suspended automatically
39 for the duration of the suspension or revocation, unless terminated
40 or rescinded as provided in subdivision (c). The healing arts board

1 shall notify the licensee of the license suspension and of his or her
2 right to have the issue of penalty heard as provided in this section.

3 (b) Upon its own motion or for good cause shown, the board
4 may decline to impose or may set aside the suspension when it
5 appears to be in the interest of justice to do so, with due regard to
6 maintaining the integrity of, and confidence in, the specific healing
7 art.

8 (c) The issue of penalty shall be heard by an administrative law
9 judge sitting alone or with a panel of the board, in the discretion
10 of the board. A licensee may request a hearing on the penalty and
11 that hearing shall be held within 90 days from the date of the
12 request. If the order suspending or revoking the license or authority
13 to practice is overturned on appeal, any discipline ordered pursuant
14 to this section shall automatically cease. Upon a showing to the
15 administrative law judge or panel by the licensee that the
16 out-of-state action is not a basis for discipline in California, the
17 suspension shall be rescinded. If an accusation for permanent
18 discipline is not filed within 90 days of the suspension imposed
19 pursuant to this section, the suspension shall automatically
20 terminate.

21 (d) The record of the proceedings that resulted in the suspension
22 or revocation of the licensee's out-of-state license or authority to
23 practice, including a transcript of the testimony therein, may be
24 received in evidence.

25 (e) This section shall not apply to a licensee who maintains his
26 or her primary practice in California, as evidenced by having
27 maintained a practice in this state for not less than one year
28 immediately preceding the date of suspension or revocation.
29 Nothing in this section shall preclude a licensee's license from
30 being suspended pursuant to any other provision of law.

31 (f) This section shall not apply to a licensee whose license has
32 been surrendered, whose only discipline is a medical staff
33 disciplinary action at a federal hospital and not for medical
34 disciplinary cause or reason as that term is defined in Section 805,
35 or whose revocation or suspension has been stayed, even if the
36 licensee remains subject to terms of probation or other discipline.

37 (g) This section shall not apply to a suspension or revocation
38 imposed by a state that is based solely on the prior discipline of
39 the licensee by another state.

(h) The other provisions of this article setting forth a procedure for the suspension or revocation of a licensee's license or certificate shall not apply to summary suspensions issued pursuant to this section. If a summary suspension has been issued pursuant to this section, the licensee may request that the hearing on the penalty conducted pursuant to subdivision (c) be held at the same time as a hearing on the accusation.

~~(i) A board that complies with Section 2310 shall not be subject to the requirements of this section.~~

SEC. 78. *Section 2886.5 is added to the Business and Professions Code, to read:*

2886.5. *Notwithstanding any other provision of law, it is a public offense, punishable by a fine not to exceed one hundred thousand dollars (\$100,000), by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment, for:*

(a) *Any person who does not hold a current and valid license to practice licensed vocational nursing to engage in that practice.*

(b) *Any person to fraudulently buy, sell, or obtain a license to practice licensed vocational nursing or to violate any provision of this chapter.*

~~SEC. 90.~~

SEC. 79. *Section 2960.1 of the Business and Professions Code is amended to read:*

2960.1. (a) Notwithstanding Section 2960, any proposed decision or decision issued under this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee or registrant engaged in any act of sexual contact, as defined in Section 728, when that act is with a patient, or with a former patient within two years following termination of therapy, shall contain an order of revocation. The revocation shall not be stayed by the administrative law judge.

(b) Except as otherwise provided, any proposed decision or decision issued under this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee has committed a sex offense, shall contain an order revoking the license. The proposed

1 decision or decision shall not contain any order staying the
2 revocation of the licensee.

3 (c) As used in this section, the term ~~sex offense~~ “*sex offense*”
4 shall mean any of the following:

5 (1) Any offense for which registration is required by Section
6 290 of the Penal Code or a finding that a person committed such
7 an act.

8 (2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1,~~
9 ~~or 647(a) or (d) of the Penal Code subdivisions (a) to (d), inclusive,~~
10 ~~of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d)~~
11 ~~of Section 647 of the Penal Code~~, or a finding that a person
12 committed such an act.

13 (3) Any attempt to commit any of the offenses specified in this
14 section.

15 (4) Any offense committed or attempted in any other state or
16 against the laws of the United States which, if committed or
17 attempted in this state, would have been punishable as one or more
18 of the offenses specified in this section.

19 ~~SEC. 91.~~

20 *SEC. 80.* Section 2969.1 is added to the Business and
21 Professions Code, to read:

22 2969.1. (a) The board may delegate to its executive officer
23 the authority to adopt a proposed default decision where an
24 administrative action to revoke a license has been filed and the
25 licensee has failed to file a notice of defense or to appear at the
26 hearing and a proposed default decision revoking the license has
27 been issued.

28 (b) The board may delegate to its executive officer the authority
29 to adopt a proposed settlement agreement where an administrative
30 action to revoke a license has been filed by the board and the
31 licensee has agreed to the revocation or surrender of his or her
32 license.

33 (c) The executive officer shall, at scheduled board meetings,
34 report to the board the number of proposed default decisions or
35 proposed settlement agreements adopted pursuant to this section.

36 ~~SEC. 92.~~

37 *SEC. 81.* Section 2969.2 is added to the Business and
38 Professions Code, to read:

39 2969.2. (a) Notwithstanding Section 11415.60 of the
40 Government Code, the board may enter into a settlement with a

1 licensee or applicant in lieu of the issuance of an accusation or
2 statement of issues against that licensee or applicant, as applicable.

3 (b) The settlement shall include language identifying the factual
4 basis for the action being taken and a list of the statutes or
5 regulations violated.

6 (c) A person who enters *into* a settlement pursuant to this section
7 is not precluded from filing a petition, in the timeframe permitted
8 by law, to modify the terms of the settlement or petition for early
9 termination of probation, if probation is part of the settlement.

10 (d) Any settlement against a licensee executed pursuant to this
11 section shall be considered discipline and a public record and shall
12 be posted on the applicable board's Internet Web site. Any
13 settlement against an applicant executed pursuant to this section
14 shall be considered a public record and shall be posted on the
15 applicable board's Internet Web site.

16 (e) The executive officer shall, at scheduled board meetings,
17 report to the board the number of proposed settlement agreements
18 adopted pursuant to this section.

19 ~~SEC. 93.~~

20 *SEC. 82.* Section 2969.3 is added to the Business and
21 Professions Code, to read:

22 2969.3. Unless otherwise provided, on or after July 1, ~~2013~~
23 ~~2014~~, the board shall post on its Internet Web site the following
24 information, including the name and license number, in its
25 possession, custody, or control regarding every licensee ~~for which~~
26 *whom* the board licenses:

27 (a) With regard to the status of every license, whether or not
28 the licensee or former licensee is in good standing, subject to a
29 temporary restraining order, subject to an interim suspension order,
30 subject to a restriction or cease practice ordered pursuant to Section
31 23 of the Penal Code, or subject to any of the enforcement actions
32 described in Section 803.1.

33 (b) With regard to prior discipline of a licensee, whether or not
34 the licensee or former licensee has been subject to discipline by
35 the board or by the board of another state or jurisdiction, as
36 described in Section 803.1.

37 (c) Any felony conviction of a licensee reported to the board.

38 (d) All current accusations filed by the Attorney General,
39 including those accusations that are on appeal. For purposes of
40 this paragraph, "current accusation" means an accusation that has

1 not been dismissed, withdrawn, or settled, and has not been finally
2 decided upon by an administrative law judge and the board unless
3 an appeal of that decision is pending.

4 (e) Any malpractice judgment or arbitration award imposed
5 against a licensee and reported to the board.

6 (f) Any hospital disciplinary action imposed against a licensee
7 that resulted in the termination or revocation of a licensee's hospital
8 staff privileges for a medical disciplinary cause or reason pursuant
9 to Section 805.

10 (g) Any misdemeanor conviction of a licensee that results in a
11 disciplinary action or an accusation that is not subsequently
12 withdrawn or dismissed.

13 (h) Appropriate disclaimers and explanatory statements to
14 accompany the above information, including an explanation of
15 what types of information are not disclosed. These disclaimers and
16 statements shall be developed by the board and shall be adopted
17 by regulation.

18 (i) The information provided on the Internet shall be in
19 accordance with the California Public Records Act (Chapter 3.5
20 (commencing with Section 6250) of Division 7 of Title 1 of the
21 Government Code) and the Information Practices Act of 1977
22 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
23 4 of Division 3 of the Civil Code) and shall comply with the
24 Department of Consumer Affairs Guidelines for Access to Public
25 Records.

26 (j) Information provided on the Internet may not include
27 personal information, unless otherwise provided pursuant to this
28 chapter, including the home telephone number, date of birth, or
29 social security number. The information may not include the
30 licensee's address, but may include the city and county of the
31 licensee's address of record.

32 ~~SEC. 94.~~

33 *SEC. 83.* Section 2969.4 is added to the Business and
34 Professions Code, to read:

35 2969.4. (a) Unless otherwise provided, if a licensee possesses
36 a license or is otherwise authorized to practice in any state other
37 than California or by any agency of the federal government and
38 that license or authority is suspended or revoked outright, the
39 California license of the licensee shall be suspended automatically
40 for the duration of the suspension or revocation, unless terminated

1 or rescinded as provided in subdivision (c). The board shall notify
2 the licensee of the license suspension and of his or her right to
3 have the issue of penalty heard as provided in this section.

4 (b) Upon its own motion or for good cause shown, the board
5 may decline to impose or may set aside the suspension when it
6 appears to be in the interest of justice to do so, with due regard to
7 maintaining the integrity of, and confidence in, the specific healing
8 art.

9 (c) The issue of penalty shall be heard by an administrative law
10 judge sitting alone or with a panel of the board, in the discretion
11 of the board. A licensee may request a hearing on the penalty and
12 that hearing shall be held within 90 days from the date of the
13 request. If the order suspending or revoking the license or authority
14 to practice is overturned on appeal, any discipline ordered pursuant
15 to this section shall automatically cease. Upon a showing to the
16 administrative law judge or panel by the licensee that the
17 out-of-state action is not a basis for discipline in California, the
18 suspension shall be rescinded. If an accusation for permanent
19 discipline is not filed within 90 days of the suspension imposed
20 pursuant to this section, the suspension shall automatically
21 terminate.

22 (d) The record of the proceedings that resulted in the suspension
23 or revocation of the licensee's out-of-state license or authority to
24 practice, including a transcript of the testimony therein, may be
25 received in evidence.

26 (e) This section shall not apply to a licensee who maintains his
27 or her primary practice in California, as evidenced by having
28 maintained a practice in this state for not less than one year
29 immediately preceding the date of suspension or revocation.
30 Nothing in this section shall preclude a licensee's license from
31 being suspended pursuant to any other provision of law.

32 (f) This section shall not apply to a licensee whose license has
33 been surrendered, whose only discipline is a medical staff
34 disciplinary action at a federal hospital and not for medical
35 disciplinary cause or reason as that term is defined in Section 805,
36 or whose revocation or suspension has been stayed, even if the
37 licensee remains subject to terms of probation or other discipline.

38 (g) This section shall not apply to a suspension or revocation
39 imposed by a state that is based solely on the prior discipline of
40 the licensee by another state.

(h) The other provisions of this article setting forth a procedure for the suspension or revocation of a licensee's license or certificate shall not apply to summary suspensions issued pursuant to this section. If a summary suspension has been issued pursuant to this section, the licensee may request that the hearing on the penalty conducted pursuant to subdivision (c) be held at the same time as a hearing on the accusation.

~~(i) A board that complies with Section 2310 shall not be subject to the requirements of this section.~~

SEC. 84. Section 2972 is added to the Business and Professions Code, to read:

2972. Notwithstanding any other provision of law, it is a public offense, punishable by a fine not to exceed one hundred thousand dollars (\$100,000), by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment, for:

(a) Any person who does not hold a current and valid license to practice psychology to engage in that practice.

(b) Any person to fraudulently buy, sell, or obtain a license to practice psychology or to violate any provision of this chapter.

~~SEC. 95.~~

SEC. 85. Section 3112 is added to the Business and Professions Code, to read:

3112. (a) The board may delegate to its executive officer the authority to adopt a proposed default decision where an administrative action to revoke a certificate of registration has been filed and the registrant has failed to file a notice of defense or to appear at the hearing and a proposed default decision revoking the certificate of registration has been issued.

(b) The board may delegate to its executive officer the authority to adopt a proposed settlement agreement where an administrative action to revoke a certificate of registration has been filed by the board and the registrant has agreed to the revocation or surrender of his or her certificate of registration.

(c) The executive officer shall, at scheduled board meetings, report to the board the number of proposed default decisions or proposed settlement agreements adopted pursuant to this section.

~~SEC. 96.~~

SEC. 86. Section 3112.1 is added to the Business and Professions Code, to read:

1 3112.1. (a) Notwithstanding Section 11415.60 of the
2 Government Code, the board may enter into a settlement with a
3 registrant or applicant in lieu of the issuance of an accusation or
4 statement of issues against that registrant or applicant, as
5 applicable.

6 (b) The settlement shall include language identifying the factual
7 basis for the action being taken and a list of the statutes or
8 regulations violated.

9 (c) A person who enters *into* a settlement pursuant to this section
10 is not precluded from filing a petition, in the timeframe permitted
11 by law, to modify the terms of the settlement or petition for early
12 termination of probation, if probation is part of the settlement.

13 (d) Any settlement against a registrant executed pursuant to this
14 section shall be considered discipline and a public record and shall
15 be posted on the applicable board's Internet Web site. Any
16 settlement against an applicant executed pursuant to this section
17 shall be considered a public record and shall be posted on the
18 applicable board's Internet Web site.

19 (e) The executive officer shall, at scheduled board meetings,
20 report to the board the number of proposed settlement agreements
21 adopted pursuant to this section.

22 ~~SEC. 97.~~

23 *SEC. 87.* Section 3112.2 is added to the Business and
24 Professions Code, to read:

25 3112.2. (a) The certificate of registration of a registrant shall
26 be suspended automatically during any time that the registrant is
27 incarcerated after conviction of a felony, regardless of whether the
28 conviction has been appealed. The board shall, immediately upon
29 receipt of the certified copy of the record of conviction, determine
30 whether the certificate of registration of the registrant has been
31 automatically suspended by virtue of his or her incarceration, and
32 if so, the duration of that suspension. The board shall notify the
33 registrant in writing of the certificate of registration suspension
34 and of his or her right to elect to have the issue of penalty heard
35 as provided in subdivision (d).

36 (b) Upon receipt of the certified copy of the record of conviction,
37 if after a hearing before an administrative law judge from the Office
38 of Administrative Hearings it is determined that the felony for
39 which the registrant was convicted was substantially related to the
40 qualifications, functions, or duties of a registrant, the board shall

1 suspend the certificate of registration until the time for appeal has
2 elapsed, if no appeal has been taken, or until the judgment of
3 conviction has been affirmed on appeal or has otherwise become
4 final, and until further order of the board.

5 (c) Notwithstanding subdivision (b), a conviction of a charge
6 of violating any federal statute or regulation or any statute or
7 regulation of this state, regulating dangerous drugs or controlled
8 substances, or a conviction of Section 187, 261, 262, or 288 of the
9 Penal Code, shall be conclusively presumed to be substantially
10 related to the qualifications, functions, or duties of a registrant and
11 no hearing shall be held on this issue. However, upon its own
12 motion or for good cause shown, the board may decline to impose
13 or may set aside the suspension when it appears to be in the interest
14 of justice to do so, with due regard to maintaining the integrity of,
15 and confidence in, the practice regulated by the board.

16 (d) (1) Discipline may be ordered against a registrant in
17 accordance with the statutes and regulations of the board when the
18 time for appeal has elapsed, the judgment of conviction has been
19 affirmed on appeal, or an order granting probation is made
20 suspending the imposition of sentence, irrespective of a subsequent
21 order under Section 1203.4 of the Penal Code allowing the person
22 to withdraw his or her plea of guilty and to enter a plea of not
23 guilty, setting aside the verdict of guilty, or dismissing the
24 accusation, complaint, information, or indictment.

25 (2) The issue of penalty shall be heard by an administrative law
26 judge from the Office of Administrative Hearings. The hearing
27 shall not be ~~had~~ held until the judgment of conviction has become
28 final or, irrespective of a subsequent order under Section 1203.4
29 of the Penal Code, an order granting probation has been made
30 suspending the imposition of sentence; except that a registrant
31 may, at his or her option, elect to have the issue of penalty decided
32 before those time periods have elapsed. Where the registrant so
33 elects, the issue of penalty shall be heard in the manner described
34 in subdivision (b) at the hearing to determine whether the
35 conviction was substantially related to the qualifications, functions,
36 or duties of a registrant. If the conviction of a registrant who has
37 made this election is overturned on appeal, any discipline ordered
38 pursuant to this section shall automatically cease. Nothing in this
39 subdivision shall prohibit the board from pursuing disciplinary
40 action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in a conviction, including a transcript of the testimony in those proceedings, may be received in evidence.

(f) Any other provision of law setting forth a procedure for the suspension or revocation of a certificate of registration issued by the board shall not apply to proceedings conducted pursuant to this section.

~~SEC. 98.~~

SEC. 88. Section 3112.3 is added to the Business and Professions Code, to read:

3112.3. (a) Except as otherwise provided, any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the registrant engaged in any act of sexual contact with a patient, as defined in subdivision (c) of Section 729, or any finding that the licensee has committed a sex offense, shall contain an order revoking the license. The proposed decision shall not contain any order staying the revocation of the certificate.

(b) As used in this section, the term ~~sex offense~~ “sex offense” shall mean any of the following:

(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

(2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1, or 647(a) or (d) of the Penal Code~~ subdivisions (a) to (d), inclusive, of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d) of Section 647 of the Penal Code, or a finding that a person committed such an act.

(3) Any attempt to commit any of the offenses specified in this section.

(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.

~~SEC. 99. Section 3112.4 is added to the Business and Professions Code, to read:~~

~~3112.4. (a) Except as otherwise provided, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state~~

1 or territory, under military law, or under federal law, the board
2 shall be subject to the following requirements:

3 (1) ~~The board shall deny an application by the individual for~~
4 ~~registration in accordance with the procedures set forth in Chapter~~
5 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
6 ~~Title 2 of the Government Code.~~

7 (2) ~~If the individual is registered under this chapter, the board~~
8 ~~shall promptly revoke the certificate of registration of the individual~~
9 ~~in accordance with the procedures set forth in Chapter 5~~
10 ~~(commencing with Section 11500) of Part 1 of Division 3 of Title~~
11 ~~2 of the Government Code. The board shall not stay the revocation~~
12 ~~and place the certificate of registration on probation.~~

13 (3) ~~The board shall not reinstate or reissue the individual's~~
14 ~~certificate of registration. The board shall not issue a stay of~~
15 ~~certificate of registration denial nor place the certificate of~~
16 ~~registration on probation.~~

17 (b) ~~This section shall not apply to any of the following:~~

18 (1) ~~An individual who has been relieved under Section 290.5~~
19 ~~of the Penal Code of his or her duty to register as a sex offender,~~
20 ~~or whose duty to register has otherwise been formally terminated~~
21 ~~under California law or the law of the jurisdiction that requires his~~
22 ~~or her registration as a sex offender.~~

23 (2) ~~An individual who is required to register as a sex offender~~
24 ~~pursuant to Section 290 of the Penal Code solely because of a~~
25 ~~misdemeanor conviction under Section 314 of the Penal Code.~~
26 ~~However, nothing in this paragraph shall prohibit the board from~~
27 ~~exercising its discretion to discipline a licensee under any other~~
28 ~~provision of state law based upon the licensee's conviction under~~
29 ~~Section 314 of the Penal Code.~~

30 (3) ~~Any administrative adjudication proceeding under Chapter~~
31 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
32 ~~Title 2 of the Government Code that is fully adjudicated prior to~~
33 ~~January 1, 2008. A petition for reinstatement of a revoked or~~
34 ~~surrendered license shall be considered a new proceeding for~~
35 ~~purposes of this paragraph, and the prohibition against reinstating~~
36 ~~a certificate of registration to an individual who is required to~~
37 ~~register as a sex offender shall be applicable.~~

38 SEC. 100. ~~Section 3112.5 is added to the Business and~~
39 ~~Professions Code, to read:~~

1 ~~3112.5. (a) Notwithstanding any other provision of law making~~
2 ~~a communication between a registrant and his or her patients a~~
3 ~~privileged communication, those provisions shall not apply to~~
4 ~~investigations or proceedings conducted by the board. Members~~
5 ~~of the board, deputies, employees, agents, the office of the Attorney~~
6 ~~General, and representatives of the board shall keep in confidence~~
7 ~~during the course of investigations the names of any patients whose~~
8 ~~records are reviewed and may not disclose or reveal those names,~~
9 ~~except as is necessary during the course of an investigation, unless~~
10 ~~and until proceedings are instituted. The authority under this~~
11 ~~subdivision to examine records of patients in the office of a licensee~~
12 ~~is limited to records of patients who have complained to the board~~
13 ~~about that licensee.~~

14 ~~(b) Notwithstanding any other provision of law, the Attorney~~
15 ~~General and his or her investigative agents, and the board and its~~
16 ~~investigators and representatives may inquire into any alleged~~
17 ~~violation of the laws under the jurisdiction of the board or any~~
18 ~~other federal or state law, regulation, or rule relevant to the practice~~
19 ~~regulated by the board, whichever is applicable, and may inspect~~
20 ~~documents relevant to those investigations in accordance with the~~
21 ~~following procedures:~~

22 ~~(1) Any document relevant to an investigation may be inspected,~~
23 ~~and copies may be obtained, where a patient provides written~~
24 ~~authorization.~~

25 ~~(2) Any document relevant to the business operations of a~~
26 ~~registrant, and not involving medical records attributable to~~
27 ~~identifiable patients, may be inspected and copied where relevant~~
28 ~~to an investigation of a licensee.~~

29 ~~(c) In all cases where documents are inspected or copies of those~~
30 ~~documents are received, their acquisition or review shall be~~
31 ~~arranged so as not to unnecessarily disrupt the medical and business~~
32 ~~operations of the registrant or of the facility where the records are~~
33 ~~kept or used.~~

34 ~~(d) Where certified documents are lawfully requested from~~
35 ~~registrants in accordance with this section by the Attorney General~~
36 ~~or his or her agents or deputies, or investigators of any board, the~~
37 ~~documents shall be provided within 10 business days of receipt of~~
38 ~~the request, unless the registrant is unable to provide the certified~~
39 ~~documents within this time period for good cause, including, but~~
40 ~~not limited to, physical inability to access the records in the time~~

1 ~~allowed due to illness or travel. Failure to produce requested~~
2 ~~certified documents or copies thereof, after being informed of the~~
3 ~~required deadline, shall constitute unprofessional conduct. A board~~
4 ~~may use its authority to cite and fine a registrant for any violation~~
5 ~~of this section. This remedy is in addition to any other authority~~
6 ~~of the board to sanction a licensee for a delay in producing~~
7 ~~requested records.~~

8 ~~(e) Searches conducted of the office or medical facility of any~~
9 ~~licensee shall not interfere with the recordkeeping format or~~
10 ~~preservation needs of any licensee necessary for the lawful care~~
11 ~~of patients.~~

12 ~~(f) The registrant shall cooperate with the board in furnishing~~
13 ~~information or assistance as may be required, including, but not~~
14 ~~limited to, participation in an interview with investigators or~~
15 ~~representatives of the board.~~

16 ~~(g) This section shall not apply to a licensee who does not have~~
17 ~~access to, and control over, certified medical records or other types~~
18 ~~of documents that belong to or are controlled by a health facility~~
19 ~~or clinic.~~

20 ~~SEC. 101. Section 3112.6 is added to the Business and~~
21 ~~Professions Code, to read:~~

22 ~~3112.6. (a) (1) Notwithstanding any other provision of law,~~
23 ~~a registrant who fails or refuses to comply with a request for the~~
24 ~~certified medical records of a patient that is accompanied by that~~
25 ~~patient's written authorization for release of records to a board~~
26 ~~together with a notice citing this section and describing the~~
27 ~~penalties for failure to comply with this section shall be required~~
28 ~~to pay to the board a civil penalty of up to one thousand dollars~~
29 ~~(\$1,000) per day for each day that the documents have not been~~
30 ~~produced after the 15th day, up to ten thousand dollars (\$10,000),~~
31 ~~unless the registrant is unable to provide the documents within this~~
32 ~~time period for good cause.~~

33 ~~(2) A health care facility shall comply with a request for the~~
34 ~~certified medical records of a patient that is accompanied by that~~
35 ~~patient's written authorization for release of records to a board~~
36 ~~together with a notice citing this section and describing the~~
37 ~~penalties for failure to comply with this section. Failure to provide~~
38 ~~the authorizing patient's certified medical records to the board~~
39 ~~within 15 days of receiving the request, authorization, and notice~~
40 ~~shall subject the health care facility to a civil penalty, payable to~~

1 the board, of up to one thousand dollars (\$1,000) per day for each
2 day that the documents have not been produced after the 15th day,
3 up to ten thousand dollars (\$10,000), unless the health care facility
4 is unable to provide the documents within this time period for good
5 cause. This paragraph shall not require health care facilities to
6 assist the board in obtaining the patient's authorization. The board
7 shall pay the reasonable costs of copying the certified medical
8 records, but shall not be required to make that payment prior to
9 the production of the medical records.

10 (b) (1) A registrant who fails or refuses to comply with a court
11 order, issued in the enforcement of a subpoena, mandating the
12 release of records to the board, shall pay to the board a civil penalty
13 of up to one thousand dollars (\$1,000) per day for each day that
14 the documents have not been produced after the date by which the
15 court order requires the documents to be produced, up to ten
16 thousand dollars (\$10,000), unless it is determined that the order
17 is unlawful or invalid. Any statute of limitations applicable to the
18 filing of an accusation by the board shall be tolled during the period
19 the licensee is out of compliance with the court order and during
20 any related appeals.

21 (2) Any licensee who fails or refuses to comply with a court
22 order, issued in the enforcement of a subpoena, mandating the
23 release of records to a board is guilty of a misdemeanor punishable
24 by a fine payable to the board not to exceed five thousand dollars
25 (\$5,000). The fine shall be added to the licensee's renewal fee if
26 it is not paid by the next succeeding renewal date. Any statute of
27 limitations applicable to the filing of an accusation by the board
28 shall be tolled during the period the licensee is out of compliance
29 with the court order and during any related appeals.

30 (3) A health care facility that fails or refuses to comply with a
31 court order, issued in the enforcement of a subpoena, mandating
32 the release of patient records to the board, that is accompanied by
33 a notice citing this section and describing the penalties for failure
34 to comply with this section, shall pay to the board a civil penalty
35 of up to one thousand dollars (\$1,000) per day for each day that
36 the documents have not been produced, up to ten thousand dollars
37 (\$10,000), after the date by which the court order requires the
38 documents to be produced, unless it is determined that the order
39 is unlawful or invalid. Any statute of limitations applicable to the
40 filing of an accusation by the board against a licensee shall be

1 tolled during the period the health care facility is out of compliance
2 with the court order and during any related appeals.

3 ~~(4) Any health care facility that fails or refuses to comply with~~
4 ~~a court order, issued in the enforcement of a subpoena, mandating~~
5 ~~the release of records to the board is guilty of a misdemeanor~~
6 ~~punishable by a fine payable to the board not to exceed five~~
7 ~~thousand dollars (\$5,000). Any statute of limitations applicable to~~
8 ~~the filing of an accusation by the board against a registrant shall~~
9 ~~be tolled during the period the health care facility is out of~~
10 ~~compliance with the court order and during any related appeals.~~

11 ~~(e) Multiple acts by a licensee in violation of subdivision (b)~~
12 ~~shall be punishable by a fine not to exceed five thousand dollars~~
13 ~~(\$5,000) or by imprisonment in a county jail not exceeding six~~
14 ~~months, or by both that fine and imprisonment. Multiple acts by~~
15 ~~a health care facility in violation of subdivision (b) shall be~~
16 ~~punishable by a fine not to exceed five thousand dollars (\$5,000);~~
17 ~~shall be reported to the State Department of Public Health, and~~
18 ~~shall be considered as grounds for disciplinary action with respect~~
19 ~~to licensure, including suspension or revocation of the certificate.~~

20 ~~(d) A failure or refusal of a registrant to comply with a court~~
21 ~~order, issued in the enforcement of a subpoena, mandating the~~
22 ~~release of records to the board constitutes unprofessional conduct~~
23 ~~and is grounds for suspension or revocation of his or her certificate.~~

24 ~~(e) Imposition of the civil penalties authorized by this section~~
25 ~~shall be in accordance with the Administrative Procedure Act~~
26 ~~(Chapter 5 (commencing with Section 11500) of Division 3 of~~
27 ~~Title 2 of the Government Code). Any civil penalties paid to, or~~
28 ~~received by, the board pursuant to this section shall be deposited~~
29 ~~into the fund administered by the board.~~

30 ~~(f) For purposes of this section, “certified medical records”~~
31 ~~means a copy of the patient’s medical records authenticated by the~~
32 ~~licensee or health care facility, as appropriate, on a form prescribed~~
33 ~~by the licensee’s board.~~

34 ~~(g) For purposes of this section, a “health care facility” means~~
35 ~~a clinic or health facility licensed or exempt from licensure~~
36 ~~pursuant to Division 2 (commencing with Section 1200) of the~~
37 ~~Health and Safety Code.~~

38 ~~(h) If a board complies with Section 1684.1, 2225.5, or 2969,~~
39 ~~that board shall not be subject to the requirements of this section.~~

1 ~~(i) This section shall not apply to a registrant who does not have~~
2 ~~access to, or control over, certified medical records or other types~~
3 ~~of documents that belong to or are controlled by a health facility~~
4 ~~or clinic.~~

5 ~~SEC. 102.~~

6 SEC. 89. Section 3112.7 is added to the Business and
7 Professions Code, to read:

8 3112.7. (a) Notwithstanding any other provision of law, any
9 employer of a licensee shall report to the board the suspension or
10 termination for cause, or any resignation in lieu of suspension or
11 termination for cause, of any licensee in its employ within 15
12 business days. The report shall not be made until after the
13 conclusion of the review process specified in Section 52.3 of Title
14 2 of the California Code of Regulations and *Skelly v. State*
15 *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This
16 required reporting shall not constitute a waiver of confidentiality
17 of medical records. The information reported or disclosed shall be
18 kept confidential except as provided in subdivision (c) of Section
19 800 and shall not be subject to discovery in civil cases.

20 (b) The information to be reported by the employer shall include
21 the name and license number of the licensee involved, a
22 description of the facts and circumstances of the suspension or
23 termination for cause, any resignation in lieu of suspension or
24 termination for cause, and any other relevant information deemed
25 appropriate by the employer.

26 (c) The board shall be entitled to inspect and copy the following
27 documents in the record for any suspension or termination for
28 cause, or any resignation in lieu of suspension or termination for
29 cause, resulting in action that is required to be reported pursuant
30 to this section:

31 (1) Any statement for suspension or termination of the registrant.

32 (2) Any document or exhibits relevant to the suspension or
33 termination.

34 (d) If, during the investigation by the board of the cause for the
35 termination or suspension or resignation of the registrant, it is
36 found that there has been a violation of existing state or federal
37 law, the board shall report the violation to the appropriate agency.

38 (e) For purposes of this section, “suspension or termination for
39 cause” or “resignation in lieu of suspension or termination for

1 cause” is defined as resignation, suspension, or termination from
2 employment for any of the following reasons:

3 (1) Use of controlled substances or alcohol to the extent that it
4 impairs the licensee’s ability to safely practice.

5 (2) Unlawful sale of a controlled substance or other prescription
6 items.

7 (3) Patient or client abuse, neglect, physical harm, or sexual
8 contact with a patient or client.

9 (4) Gross negligence or incompetence.

10 (5) Theft from a patient or client, any other employee, or the
11 employer.

12 (f) As used in this section, the following definitions apply:

13 (1) “Gross negligence” means a substantial departure from the
14 standard of care, which, under similar circumstances, would have
15 ordinarily been exercised by a competent licensee, and which has
16 or could have resulted in harm to the consumer. An exercise of so
17 slight a degree of care as to justify the belief that there was a
18 conscious disregard or indifference for the health, safety, or welfare
19 of the consumer shall be considered a substantial departure from
20 the standard of care.

21 (2) “Incompetence” means the lack of possession of, and the
22 failure to exercise that degree of learning, skill, care, and
23 experience ordinarily possessed by, a responsible licensee.

24 (3) “Willful” means a knowing and intentional violation of a
25 known legal duty.

26 (g) (1) Willful failure of an employer to make a report required
27 by this section is punishable by an administrative fine not to exceed
28 one hundred thousand dollars (\$100,000) per violation.

29 (2) Any failure of an employer, other than willful failure, to
30 make a report required by this section is punishable by an
31 administrative fine not to exceed fifty thousand dollars (\$50,000).

32 (h) The board shall investigate the circumstances underlying
33 any report received pursuant to this section within 30 days to
34 determine if an interim suspension order or temporary restraining
35 order should be issued. The board shall otherwise provide timely
36 disposition of the reports received pursuant to this section.

37 (i) The board shall send to the licentiate a copy of the report
38 along with the reasons for the filing of the report and notice
39 advising the licentiate of his or her right to submit additional
40 statements or other information to the board.

(j) Pursuant to Section 43.8 of the Civil Code, no person shall incur any civil penalty as a result of making any report required by this article.

(k) No report is required under this section where a report of the action taken is already required under Section 805.

~~SEC. 103.~~

SEC. 90. Section 3112.8 is added to the Business and Professions Code, to read:

3112.8. Unless otherwise provided, on or after July 1, ~~2013~~ 2014, the board shall post on its Internet Web site the following information, including the name and license number, in its possession, custody, or control regarding every registrant ~~for which~~ *whom* the board licenses:

(a) With regard to the status of every registrant, whether or not the registrant or former registrant is in good standing, subject to a temporary restraining order, subject to an interim suspension order, subject to a restriction or cease practice ordered pursuant to Section 23 of the Penal Code, or subject to any of the enforcement actions described in Section 803.1.

(b) With regard to prior discipline of a registrant, whether or not the registrant or former registrant has been subject to discipline by the board or by the board of another state or jurisdiction, as described in Section 803.1.

(c) Any felony conviction of a registrant reported to the board.

(d) All current accusations filed by the Attorney General, including those accusations that are on appeal. For purposes of this paragraph, “current accusation” means an accusation that has not been dismissed, withdrawn, or settled, and has not been finally decided upon by an administrative law judge and the board unless an appeal of that decision is pending.

(e) Any malpractice judgment or arbitration award imposed against a licensee and reported to the board.

(f) Any hospital disciplinary action imposed against a registrant that resulted in the termination or revocation of a registrant’s hospital staff privileges for a medical disciplinary cause or reason pursuant to ~~Section 3112.6 or~~ 805.

(g) Any misdemeanor conviction of a registrant that results in a disciplinary action or an accusation that is not subsequently withdrawn or dismissed.

1 (h) Appropriate disclaimers and explanatory statements to
2 accompany the above information, including an explanation of
3 what types of information are not disclosed. These disclaimers and
4 statements shall be developed by the board and shall be adopted
5 by regulation.

6 (i) The information provided on the Internet shall be in
7 accordance with the California Public Records Act (Chapter 3.5
8 (commencing with Section 6250) of Division 7 of Title 1 of the
9 Government Code) and the Information Practices Act of 1977
10 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
11 4 of Division 3 of the Civil Code) and shall comply with the
12 Department of Consumer Affairs Guidelines for Access to Public
13 Records.

14 (j) Information provided on the Internet may not include
15 personal information, unless otherwise provided pursuant to this
16 chapter, including the home telephone number, date of birth, or
17 social security number. The information may not include the
18 licensee's address, but may include the city and county of the
19 licensee's address of record.

20 ~~SEC. 104.~~

21 *SEC. 91.* Section 3112.9 is added to the Business and
22 Professions Code, to read:

23 3112.9. (a) Unless otherwise provided, if a registrant possesses
24 a license or is otherwise authorized to practice in any state other
25 than California or by any agency of the federal government and
26 that license or authority is suspended or revoked outright, the
27 California license of the licensee shall be suspended automatically
28 for the duration of the suspension or revocation, unless terminated
29 or rescinded as provided in subdivision (c). The board shall notify
30 the licensee of the license suspension and of his or her right to
31 have the issue of penalty heard as provided in this section.

32 (b) Upon its own motion or for good cause shown, the board
33 may decline to impose or may set aside the suspension when it
34 appears to be in the interest of justice to do so, with due regard to
35 maintaining the integrity of, and confidence in, the specific healing
36 art.

37 (c) The issue of penalty shall be heard by an administrative law
38 judge sitting alone or with a panel of the board, in the discretion
39 of the board. A licensee may request a hearing on the penalty and
40 that hearing shall be held within 90 days from the date of the

1 request. If the order suspending or revoking the certificate or
2 authority to practice is overturned on appeal, any discipline ordered
3 pursuant to this section shall automatically cease. Upon a showing
4 to the administrative law judge or panel by the licensee that the
5 out-of-state action is not a basis for discipline in California, the
6 suspension shall be rescinded. If an accusation for permanent
7 discipline is not filed within 90 days of the suspension imposed
8 pursuant to this section, the suspension shall automatically
9 terminate.

10 (d) The record of the proceedings that resulted in the suspension
11 or revocation of the licensee's out-of-state license or authority to
12 practice, including a transcript of the testimony therein, may be
13 received in evidence.

14 (e) This section shall not apply to a registrant who maintains
15 his or her primary practice in California, as evidenced by having
16 maintained a practice in this state for not less than one year
17 immediately preceding the date of suspension or revocation.
18 Nothing in this section shall preclude a registrant's license from
19 being suspended pursuant to any other provision of law.

20 (f) This section shall not apply to a registrant whose license has
21 been surrendered, whose only discipline is a medical staff
22 disciplinary action at a federal hospital and not for medical
23 disciplinary cause or reason as that term is defined in Section 805,
24 or whose revocation or suspension has been stayed, even if the
25 licensee remains subject to terms of probation or other discipline.

26 (g) This section shall not apply to a suspension or revocation
27 imposed by a state that is based solely on the prior discipline of
28 the registrant by another state.

29 (h) The other provisions of this article setting forth a procedure
30 for the suspension or revocation of a licensee's license or certificate
31 shall not apply to summary suspensions issued pursuant to this
32 section. If a summary suspension has been issued pursuant to this
33 section, the licensee may request that the hearing on the penalty
34 conducted pursuant to subdivision (c) be held at the same time as
35 a hearing on the accusation.

36 ~~(i) A board that complies with Section 2310 shall not be subject~~
37 ~~to the requirements of this section.~~

38 *SEC. 92. Section 3123 is added to the Business and Professions*
39 *Code, to read:*

1 3123. *Notwithstanding any other provision of law, it is a public*
2 *offense, punishable by a fine not to exceed one hundred thousand*
3 *dollars (\$100,000), by imprisonment in a county jail not to exceed*
4 *one year, or by both that fine and imprisonment, for:*

5 (a) *Any person who does not hold a current and valid license*
6 *to practice optometry to engage in that practice.*

7 (b) *Any person to fraudulently buy, sell, or obtain a license to*
8 *practice optometry or to violate any provision of this chapter.*

9 ~~SEC. 105.~~

10 SEC. 93. Section 3405 is added to the Business and Professions
11 Code, to read:

12 3405. (a) The board may delegate to its executive officer the
13 authority to adopt a proposed default decision where an
14 administrative action to revoke a license has been filed and the
15 licensee has failed to file a notice of defense or to appear at the
16 hearing and a proposed default decision revoking the license has
17 been issued.

18 (b) The board may delegate to its executive officer the authority
19 to adopt a proposed settlement agreement where an administrative
20 action to revoke a license has been filed by the board and the
21 licensee has agreed to the revocation or surrender of his or her
22 license.

23 (c) The executive officer shall, at scheduled board meetings,
24 report to the board the number of proposed default decisions or
25 proposed settlement agreements adopted pursuant to this section.

26 ~~SEC. 106.~~

27 SEC. 94. Section 3405.1 is added to the Business and
28 Professions Code, to read:

29 3405.1. (a) Notwithstanding Section 11415.60 of the
30 Government Code, the board may enter into a settlement with a
31 licensee or applicant in lieu of the issuance of an accusation or
32 statement of issues against that licensee or applicant, as applicable.

33 (b) The settlement shall include language identifying the factual
34 basis for the action being taken and a list of the statutes or
35 regulations violated.

36 (c) A person who enters a settlement pursuant to this section is
37 not precluded from filing a petition, in the timeframe permitted
38 by law, to modify the terms of the settlement or petition for early
39 termination of probation, if probation is part of the settlement.

(d) Any settlement against a licensee executed pursuant to this section shall be considered discipline and a public record and shall be posted on the applicable board's Internet Web site. Any settlement against an applicant executed pursuant to this section shall be considered a public record and shall be posted on the applicable board's Internet Web site.

(e) The executive officer shall, at scheduled board meetings, report to the board the number of proposed settlement agreements adopted pursuant to this section.

~~SEC. 107.~~

SEC. 95. Section 3405.2 is added to the Business and Professions Code, to read:

3405.2. (a) The license of a licensee shall be suspended automatically during any time that the licensee is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed. The board shall, immediately upon receipt of the certified copy of the record of conviction, determine whether the license of the licensee has been automatically suspended by virtue of his or her incarceration, and if so, the duration of that suspension. The board shall notify the licensee in writing of the license suspension and of his or her right to elect to have the issue of penalty heard as provided in subdivision (d).

(b) Upon receipt of the certified copy of the record of conviction, if after a hearing before an administrative law judge from the Office of Administrative Hearings it is determined that the felony for which the licensee was convicted was substantially related to the qualifications, functions, or duties of a licensee, the board shall suspend the license until the time for appeal has elapsed, if no appeal has been taken, or until the judgment of conviction has been affirmed on appeal or has otherwise become final, and until further order of the board.

(c) Notwithstanding subdivision (b), a conviction of a charge of violating any federal statute or regulation or any statute or regulation of this state, regulating dangerous drugs or controlled substances, or a conviction of Section 187, 261, 262, or 288 of the Penal Code, shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a licensee and no hearing shall be held on this issue. However, upon its own motion or for good cause shown, the board may decline to impose or may set aside the suspension when it appears to be in the interest

1 of justice to do so, with due regard to maintaining the integrity of,
2 and confidence in, the practice regulated by the board.

3 (d) (1) Discipline may be ordered against a licensee in
4 accordance with the statutes and regulations of the board when the
5 time for appeal has elapsed, the judgment of conviction has been
6 affirmed on appeal, or an order granting probation is made
7 suspending the imposition of sentence, irrespective of a subsequent
8 order under Section 1203.4 of the Penal Code allowing the person
9 to withdraw his or her plea of guilty and to enter a plea of not
10 guilty, setting aside the verdict of guilty, or dismissing the
11 accusation, complaint, information, or indictment.

12 (2) The issue of penalty shall be heard by an administrative law
13 judge from the Office of Administrative Hearings. The hearing
14 shall not be ~~had~~ held until the judgment of conviction has become
15 final or, irrespective of a subsequent order under Section 1203.4
16 of the Penal Code, an order granting probation has been made
17 suspending the imposition of sentence; except that a licensee may,
18 at his or her option, elect to have the issue of penalty decided before
19 those time periods have elapsed. Where the licensee so elects, the
20 issue of penalty shall be heard in the manner described in
21 subdivision (b) at the hearing to determine whether the conviction
22 was substantially related to the qualifications, functions, or duties
23 of a licensee. If the conviction of a licensee who has made this
24 election is overturned on appeal, any discipline ordered pursuant
25 to this section shall automatically cease. Nothing in this subdivision
26 shall prohibit the board from pursuing disciplinary action based
27 on any cause other than the overturned conviction.

28 (e) The record of the proceedings resulting in a conviction,
29 including a transcript of the testimony in those proceedings, may
30 be received in evidence.

31 (f) Any other provision of law setting forth a procedure for the
32 suspension or revocation of a license issued by the board shall not
33 apply to proceedings conducted pursuant to this section.

34 ~~SEC. 108.~~

35 *SEC. 96.* Section 3405.3 is added to the Business and
36 Professions Code, to read:

37 3405.3. (a) Except as otherwise provided, any proposed
38 decision or decision issued in accordance with the procedures set
39 forth in Chapter 5 (commencing with Section 11500) of Part 1 of
40 Division 3 of Title 2 of the Government Code, that contains any

1 finding of fact that the licensee engaged in any act of sexual contact
2 with a patient, as defined in subdivision (c) of Section 729, or any
3 finding that the licensee has committed a sex offense, shall contain
4 an order revoking the license. The proposed decision shall not
5 contain any order staying the revocation of the licensee.

6 (b) As used in this section, the term ~~sex offense~~ “*sex offense*”
7 shall mean any of the following:

8 (1) Any offense for which registration is required by Section
9 290 of the Penal Code or a finding that a person committed such
10 an act.

11 (2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1,~~
12 ~~or 647(a) or (d) of the Penal Code subdivisions (a) to (d), inclusive,~~
13 ~~of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d)~~
14 ~~of Section 647 of the Penal Code,~~ or a finding that a person
15 committed such an act.

16 (3) Any attempt to commit any of the offenses specified in this
17 section.

18 (4) Any offense committed or attempted in any other state or
19 against the laws of the United States which, if committed or
20 attempted in this state, would have been punishable as one or more
21 of the offenses specified in this section.

22 ~~SEC. 109. Section 3405.4 is added to the Business and~~
23 ~~Professions Code, to read:~~

24 ~~3405.4. (a) Except as otherwise provided, with regard to an~~
25 ~~individual who is required to register as a sex offender pursuant~~
26 ~~to Section 290 of the Penal Code, or the equivalent in another state~~
27 ~~or territory, under military law, or under federal law, the board~~
28 ~~shall be subject to the following requirements:~~

29 ~~(1) The board shall deny an application by the individual for~~
30 ~~licensure in accordance with the procedures set forth in Chapter~~
31 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
32 ~~Title 2 of the Government Code.~~

33 ~~(2) If the individual is licensed under this chapter, the board~~
34 ~~shall promptly revoke the license of the individual in accordance~~
35 ~~with the procedures set forth in Chapter 5 (commencing with~~
36 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
37 ~~Code. The board shall not stay the revocation and place the license~~
38 ~~on probation.~~

1 ~~(3) The board shall not reinstate or reissue the individual's~~
2 ~~license. The board shall not issue a stay of license denial nor place~~
3 ~~the license on probation.~~

4 ~~(b) This section shall not apply to any of the following:~~

5 ~~(1) An individual who has been relieved under Section 290.5~~
6 ~~of the Penal Code of his or her duty to register as a sex offender,~~
7 ~~or whose duty to register has otherwise been formally terminated~~
8 ~~under California law or the law of the jurisdiction that requires his~~
9 ~~or her registration as a sex offender.~~

10 ~~(2) An individual who is required to register as a sex offender~~
11 ~~pursuant to Section 290 of the Penal Code solely because of a~~
12 ~~misdemeanor conviction under Section 314 of the Penal Code.~~
13 ~~However, nothing in this paragraph shall prohibit the board from~~
14 ~~exercising its discretion to discipline a licensee under any other~~
15 ~~provision of state law based upon the licensee's conviction under~~
16 ~~Section 314 of the Penal Code.~~

17 ~~(3) Any administrative adjudication proceeding under Chapter~~
18 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
19 ~~Title 2 of the Government Code that is fully adjudicated prior to~~
20 ~~January 1, 2008. A petition for reinstatement of a revoked or~~
21 ~~surrendered license shall be considered a new proceeding for~~
22 ~~purposes of this paragraph, and the prohibition against reinstating~~
23 ~~a license to an individual who is required to register as a sex~~
24 ~~offender shall be applicable.~~

25 ~~SEC. 110. Section 3405.5 is added to the Business and~~
26 ~~Professions Code, to read:~~

27 ~~3405.5. (a) Notwithstanding any other provision of law making~~
28 ~~a communication between a licensee and his or her patients a~~
29 ~~privileged communication, those provisions shall not apply to~~
30 ~~investigations or proceedings conducted by the board. Members~~
31 ~~of the board, deputies, employees, agents, the office of the Attorney~~
32 ~~General, and representatives of the board shall keep in confidence~~
33 ~~during the course of investigations the names of any patients whose~~
34 ~~records are reviewed and may not disclose or reveal those names,~~
35 ~~except as is necessary during the course of an investigation, unless~~
36 ~~and until proceedings are instituted. The authority under this~~
37 ~~subdivision to examine records of patients in the office of a licensee~~
38 ~~is limited to records of patients who have complained to the board~~
39 ~~about that licensee.~~

~~(b) Notwithstanding any other provision of law, the Attorney General and his or her investigative agents, and the board and its investigators and representatives may inquire into any alleged violation of the laws under the jurisdiction of the board or any other federal or state law, regulation, or rule relevant to the practice regulated by the board, whichever is applicable, and may inspect documents relevant to those investigations in accordance with the following procedures:~~

~~(1) Any document relevant to an investigation may be inspected, and copies may be obtained, where a patient provides written authorization.~~

~~(2) Any document relevant to the business operations of a licensee, and not involving medical records attributable to identifiable patients, may be inspected and copied where relevant to an investigation of a licensee.~~

~~(c) In all cases where documents are inspected or copies of those documents are received, their acquisition or review shall be arranged so as not to unnecessarily disrupt the medical and business operations of the licensee or of the facility where the records are kept or used.~~

~~(d) Where certified documents are lawfully requested from licensees in accordance with this section by the Attorney General or his or her agents or deputies, or investigators of any board, the documents shall be provided within 10 business days of receipt of the request, unless the licensee is unable to provide the certified documents within this time period for good cause, including, but not limited to, physical inability to access the records in the time allowed due to illness or travel. Failure to produce requested certified documents or copies thereof, after being informed of the required deadline, shall constitute unprofessional conduct. A board may use its authority to cite and fine a licensee for any violation of this section. This remedy is in addition to any other authority of the board to sanction a licensee for a delay in producing requested records.~~

~~(e) Searches conducted of the office or medical facility of any licensee shall not interfere with the recordkeeping format or preservation needs of any licensee necessary for the lawful care of patients.~~

~~(f) The licensee shall cooperate with the board in furnishing information or assistance as may be required, including, but not~~

1 limited to, participation in an interview with investigators or
2 representatives of the board.

3 (g) This section shall not apply to a licensee who does not have
4 access to, and control over, certified medical records or other types
5 of documents that belong to or are controlled by a health facility
6 or clinic.

7 SEC. 111. Section 3405.6 is added to the Business and
8 Professions Code, to read:

9 3405.6. (a) (1) Notwithstanding any other provision of law,
10 a licensee who fails or refuses to comply with a request for the
11 certified medical records of a patient that is accompanied by that
12 patient's written authorization for release of records to the board
13 together with a notice citing this section and describing the
14 penalties for failure to comply with this section shall be required
15 to pay to the board a civil penalty of up to one thousand dollars
16 (\$1,000) per day for each day that the documents have not been
17 produced after the 15th day, up to ten thousand dollars (\$10,000),
18 unless the licensee is unable to provide the documents within this
19 time period for good cause.

20 (2) A health care facility shall comply with a request for the
21 certified medical records of a patient that is accompanied by that
22 patient's written authorization for release of records to the board
23 together with a notice citing this section and describing the
24 penalties for failure to comply with this section. Failure to provide
25 the authorizing patient's certified medical records to the board
26 within 15 days of receiving the request, authorization, and notice
27 shall subject the health care facility to a civil penalty, payable to
28 the board, of up to one thousand dollars (\$1,000) per day for each
29 day that the documents have not been produced after the 15th day,
30 up to ten thousand dollars (\$10,000), unless the health care facility
31 is unable to provide the documents within this time period for good
32 cause. This paragraph shall not require health care facilities to
33 assist a board in obtaining the patient's authorization. The board
34 shall pay the reasonable costs of copying the certified medical
35 records, but shall not be required to make that payment prior to
36 the production of the medical records.

37 (b) (1) A licensee who fails or refuses to comply with a court
38 order, issued in the enforcement of a subpoena, mandating the
39 release of records to the board, shall pay to the board a civil penalty
40 of up to one thousand dollars (\$1,000) per day for each day that

1 the documents have not been produced after the date by which the
2 court order requires the documents to be produced, up to ten
3 thousand dollars (\$10,000), unless it is determined that the order
4 is unlawful or invalid. Any statute of limitations applicable to the
5 filing of an accusation by the board shall be tolled during the period
6 the licensee is out of compliance with the court order and during
7 any related appeals.

8 (2) Any licensee who fails or refuses to comply with a court
9 order, issued in the enforcement of a subpoena, mandating the
10 release of records to a board is guilty of a misdemeanor punishable
11 by a fine payable to the board not to exceed five thousand dollars
12 (\$5,000). The fine shall be added to the licensee's renewal fee if
13 it is not paid by the next succeeding renewal date. Any statute of
14 limitations applicable to the filing of an accusation by the board
15 shall be tolled during the period the licensee is out of compliance
16 with the court order and during any related appeals.

17 (3) A health care facility that fails or refuses to comply with a
18 court order, issued in the enforcement of a subpoena, mandating
19 the release of patient records to the board, that is accompanied by
20 a notice citing this section and describing the penalties for failure
21 to comply with this section, shall pay to the board a civil penalty
22 of up to one thousand dollars (\$1,000) per day for each day that
23 the documents have not been produced, up to ten thousand dollars
24 (\$10,000), after the date by which the court order requires the
25 documents to be produced, unless it is determined that the order
26 is unlawful or invalid. Any statute of limitations applicable to the
27 filing of an accusation by the board against a licensee shall be
28 tolled during the period the health care facility is out of compliance
29 with the court order and during any related appeals.

30 (4) Any health care facility that fails or refuses to comply with
31 a court order, issued in the enforcement of a subpoena, mandating
32 the release of records to the board is guilty of a misdemeanor
33 punishable by a fine payable to the board not to exceed five
34 thousand dollars (\$5,000). Any statute of limitations applicable to
35 the filing of an accusation by the board against a licensee shall be
36 tolled during the period the health care facility is out of compliance
37 with the court order and during any related appeals.

38 (c) Multiple acts by a licensee in violation of subdivision (b)
39 shall be punishable by a fine not to exceed five thousand dollars
40 (\$5,000) or by imprisonment in a county jail not exceeding six

1 months, or by both that fine and imprisonment. Multiple acts by
2 a health care facility in violation of subdivision (b) shall be
3 punishable by a fine not to exceed five thousand dollars (\$5,000);
4 shall be reported to the State Department of Public Health, and
5 shall be considered as grounds for disciplinary action with respect
6 to licensure, including suspension or revocation of the license or
7 certificate.

8 (d) A failure or refusal of a licensee to comply with a court
9 order, issued in the enforcement of a subpoena, mandating the
10 release of records to the board constitutes unprofessional conduct
11 and is grounds for suspension or revocation of his or her license.

12 (e) Imposition of the civil penalties authorized by this section
13 shall be in accordance with the Administrative Procedure Act
14 (Chapter 5 (commencing with Section 11500) of Division 3 of
15 Title 2 of the Government Code). Any civil penalties paid to, or
16 received by, a board pursuant to this section shall be deposited
17 into the fund administered by the board.

18 (f) For purposes of this section, “certified medical records”
19 means a copy of the patient’s medical records authenticated by the
20 licensee or health care facility, as appropriate, on a form prescribed
21 by the licensee’s board.

22 (g) For purposes of this section, a “health care facility” means
23 a clinic or health facility licensed or exempt from licensure
24 pursuant to Division 2 (commencing with Section 1200) of the
25 Health and Safety Code.

26 (h) If a board complies with Section 1684.1, 2225.5, or 2969,
27 that board shall not be subject to the requirements of this section.

28 (i) This section shall not apply to a licensee who does not have
29 access to, or control over, certified medical records.

30 ~~SEC. 112.~~

31 *SEC. 97.* Section 3405.7 is added to the Business and
32 Professions Code, to read:

33 3405.7. (a) Notwithstanding any other provision of law, any
34 employer of a licensee shall report to the board the suspension or
35 termination for cause, or any resignation in lieu of suspension or
36 termination for cause, of any licensee in its employ within 15
37 business days. The report shall not be made until after the
38 conclusion of the review process specified in Section 52.3 of Title
39 2 of the California Code of Regulations and *Skelly v. State*
40 *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This

1 required reporting shall not constitute a waiver of confidentiality
2 of medical records. The information reported or disclosed shall be
3 kept confidential except as provided in subdivision (c) of Section
4 800 and shall not be subject to discovery in civil cases.

5 (b) The information to be reported by the employer shall include
6 the name and license number of the licensee involved, a
7 description of the facts and circumstances of the suspension or
8 termination for cause, any resignation in lieu of suspension or
9 termination for cause, and any other relevant information deemed
10 appropriate by the employer.

11 (c) The board shall be entitled to inspect and copy the following
12 documents in the record for any suspension or termination for
13 cause, or any resignation in lieu of suspension or termination for
14 cause, resulting in action that is required to be reported pursuant
15 to this section:

16 (1) Any statement for suspension or termination of the licensee.

17 (2) Any document or exhibits relevant to the suspension or
18 termination.

19 (d) If, during the investigation by the board of the cause for the
20 termination or suspension or resignation of the licensee, it is found
21 that there has been a violation of existing state or federal law, the
22 board shall report the violation to the appropriate agency.

23 (e) For purposes of this section, “suspension or termination for
24 cause” or “resignation in lieu of suspension or termination for
25 cause” is defined as resignation, suspension, or termination from
26 employment for any of the following reasons:

27 (1) Use of controlled substances or alcohol to the extent that it
28 impairs the licensee’s ability to safely practice.

29 (2) Unlawful sale of a controlled substance or other prescription
30 items.

31 (3) Patient or client abuse, neglect, physical harm, or sexual
32 contact with a patient or client.

33 (4) Gross negligence or incompetence.

34 (5) Theft from a patient or client, any other employee, or the
35 employer.

36 (f) As used in this section, the following definitions apply:

37 (1) “Gross negligence” means a substantial departure from the
38 standard of care, which, under similar circumstances, would have
39 ordinarily been exercised by a competent licensee, and which has
40 or could have resulted in harm to the consumer. An exercise of so

1 slight a degree of care as to justify the belief that there was a
2 conscious disregard or indifference for the health, safety, or welfare
3 of the consumer shall be considered a substantial departure from
4 the standard of care.

5 (2) “Incompetence” means the lack of possession of, and the
6 failure to exercise that degree of learning, skill, care, and
7 experience ordinarily possessed by, a responsible licensee.

8 (3) “Willful” means a knowing and intentional violation of a
9 known legal duty.

10 (g) (1) Willful failure of an employer to make a report required
11 by this section is punishable by an administrative fine not to exceed
12 one hundred thousand dollars (\$100,000) per violation.

13 (2) Any failure of an employer, other than willful failure, to
14 make a report required by this section is punishable by an
15 administrative fine not to exceed fifty thousand dollars (\$50,000).

16 (h) The board shall investigate the circumstances underlying
17 any report received pursuant to this section within 30 days to
18 determine if an interim suspension order or temporary restraining
19 order should be issued. The board shall otherwise provide timely
20 disposition of the reports received pursuant to this section.

21 (i) The board shall send to the licensee a copy of the report
22 along with the reasons for the filing of the report and notice
23 advising the licensee of his or her right to submit additional
24 statements or other information to the board.

25 (j) Pursuant to Section 43.8 of the Civil Code, no person shall
26 incur any civil penalty as a result of making any report required
27 by this article.

28 (k) No report is required under this section where a report of
29 the action taken is already required under Section 805.

30 ~~SEC. 113.~~

31 *SEC. 98.* Section 3405.8 is added to the Business and
32 Professions Code, to read:

33 3405.8. Unless otherwise provided, on or after July 1, ~~2013~~
34 ~~2014~~, the board shall post on its Internet Web site the following
35 information, including the name and license number, in its
36 possession, custody, or control regarding every licensee ~~for which~~
37 *whom* the board licenses:

38 (a) With regard to the status of every license, whether or not
39 the licensee or former licensee is in good standing, subject to a
40 temporary restraining order, subject to an interim suspension order,

1 subject to a restriction or cease practice ordered pursuant to Section
2 23 of the Penal Code, or subject to any of the enforcement actions
3 described in Section 803.1.

4 (b) With regard to prior discipline of a licensee, whether or not
5 the licensee or former licensee has been subject to discipline by
6 the board or by the board of another state or jurisdiction, as
7 described in Section 803.1.

8 (c) Any felony conviction of a licensee reported to the board.

9 (d) All current accusations filed by the Attorney General,
10 including those accusations that are on appeal. For purposes of
11 this paragraph, “current accusation” means an accusation that has
12 not been dismissed, withdrawn, or settled, and has not been finally
13 decided upon by an administrative law judge and the board unless
14 an appeal of that decision is pending.

15 (e) Any malpractice judgment or arbitration award imposed
16 against a licensee and reported to the healing arts board.

17 (f) Any hospital disciplinary action imposed against a licensee
18 that resulted in the termination or revocation of a licensee’s hospital
19 staff privileges for a medical disciplinary cause or reason pursuant
20 to Section ~~3405.6~~ or 805.

21 (g) Any misdemeanor conviction of a licensee that results in a
22 disciplinary action or an accusation that is not subsequently
23 withdrawn or dismissed.

24 (h) Appropriate disclaimers and explanatory statements to
25 accompany the above information, including an explanation of
26 what types of information are not disclosed. These disclaimers and
27 statements shall be developed by the board and shall be adopted
28 by regulation.

29 (i) The information provided on the Internet shall be in
30 accordance with the California Public Records Act (Chapter 3.5
31 (commencing with Section 6250) of Division 7 of Title 1 of the
32 Government Code) and the Information Practices Act of 1977
33 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
34 4 of Division 3 of the Civil Code) and shall comply with the
35 Department of Consumer Affairs Guidelines for Access to Public
36 Records.

37 (j) Information provided on the Internet may not include
38 personal information, unless otherwise provided pursuant to this
39 chapter, including the home telephone number, date of birth, or
40 social security number. The information may not include the

1 licensee's address, but may include the city and county of the
2 licensee's address of record.

3 ~~SEC. 114.~~

4 *SEC. 99.* Section 3405.9 is added to the Business and
5 Professions Code, to read:

6 3405.9. (a) Unless otherwise provided, if a licensee possesses
7 a license or is otherwise authorized to practice in any state other
8 than California or by any agency of the federal government and
9 that license or authority is suspended or revoked outright, the
10 California license of the licensee shall be suspended automatically
11 for the duration of the suspension or revocation, unless terminated
12 or rescinded as provided in subdivision (c). The healing arts board
13 shall notify the licensee of the license suspension and of his or her
14 right to have the issue of penalty heard as provided in this section.

15 (b) Upon its own motion or for good cause shown, the board
16 may decline to impose or may set aside the suspension when it
17 appears to be in the interest of justice to do so, with due regard to
18 maintaining the integrity of, and confidence in, the specific healing
19 art.

20 (c) The issue of penalty shall be heard by an administrative law
21 judge sitting alone or with a panel of the board, in the discretion
22 of the board. A licensee may request a hearing on the penalty and
23 that hearing shall be held within 90 days from the date of the
24 request. If the order suspending or revoking the license or authority
25 to practice is overturned on appeal, any discipline ordered pursuant
26 to this section shall automatically cease. Upon a showing to the
27 administrative law judge or panel by the licensee that the
28 out-of-state action is not a basis for discipline in California, the
29 suspension shall be rescinded. If an accusation for permanent
30 discipline is not filed within 90 days of the suspension imposed
31 pursuant to this section, the suspension shall automatically
32 terminate.

33 (d) The record of the proceedings that resulted in the suspension
34 or revocation of the licensee's out-of-state license or authority to
35 practice, including a transcript of the testimony therein, may be
36 received in evidence.

37 (e) This section shall not apply to a licensee who maintains his
38 or her primary practice in California, as evidenced by having
39 maintained a practice in this state for not less than one year
40 immediately preceding the date of suspension or revocation.

1 Nothing in this section shall preclude a licensee's license from
2 being suspended pursuant to any other provision of law.

3 (f) This section shall not apply to a licensee whose license has
4 been surrendered, whose only discipline is a medical staff
5 disciplinary action at a federal hospital and not for medical
6 disciplinary cause or reason as that term is defined in Section 805,
7 or whose revocation or suspension has been stayed, even if the
8 licensee remains subject to terms of probation or other discipline.

9 (g) This section shall not apply to a suspension or revocation
10 imposed by a state that is based solely on the prior discipline of
11 the licensee by another state.

12 (h) The other provisions of this article setting forth a procedure
13 for the suspension or revocation of a licensee's license or certificate
14 shall not apply to summary suspensions issued pursuant to this
15 section. If a summary suspension has been issued pursuant to this
16 section, the licensee may request that the hearing on the penalty
17 conducted pursuant to subdivision (c) be held at the same time as
18 a hearing on the accusation.

19 ~~(i) A board that complies with Section 2310 shall not be subject~~
20 ~~to the requirements of this section.~~

21 ~~SEC. 115.~~

22 *SEC. 100.* Section 3531.1 is added to the Business and
23 Professions Code, to read:

24 3531.1. (a) The committee may delegate to its executive officer
25 the authority to adopt a proposed default decision where an
26 administrative action to revoke a license has been filed and the
27 licensee has failed to file a notice of defense or to appear at the
28 hearing and a proposed default decision revoking the license has
29 been issued.

30 (b) The committee may delegate to its executive officer the
31 authority to adopt a proposed settlement agreement where an
32 administrative action to revoke a license has been filed by the
33 committee and the licensee has agreed to the revocation or
34 surrender of his or her license.

35 (c) The executive officer shall, at scheduled committee meetings,
36 report to the committee the number of proposed default decisions
37 or proposed settlement agreements adopted pursuant to this section.

38 ~~SEC. 116.~~

39 *SEC. 101.* Section 3531.2 is added to the Business and
40 Professions Code, to read:

1 3531.2. (a) Notwithstanding Section 11415.60 of the
2 Government Code, the committee may enter into a settlement with
3 a licensee or applicant in lieu of the issuance of an accusation or
4 statement of issues against that licensee or applicant, as applicable.

5 (b) The settlement shall include language identifying the factual
6 basis for the action being taken and a list of the statutes or
7 regulations violated.

8 (c) A person who enters *into* a settlement pursuant to this section
9 is not precluded from filing a petition, in the timeframe permitted
10 by law, to modify the terms of the settlement or petition for early
11 termination of probation, if probation is part of the settlement.

12 (d) Any settlement against a licensee executed pursuant to this
13 section shall be considered discipline and a public record and shall
14 be posted on the applicable committee's Internet Web site. Any
15 settlement against an applicant executed pursuant to this section
16 shall be considered a public record and shall be posted on the
17 applicable committee's Internet Web site.

18 (e) The executive officer shall, at scheduled committee meetings,
19 report to the committee the number of proposed settlement
20 agreements adopted pursuant to this section.

21 ~~SEC. 117.~~

22 *SEC. 102.* Section 3531.3 is added to the Business and
23 Professions Code, to read:

24 3531.3. (a) The license of a licensee shall be suspended
25 automatically during any time that the licensee is incarcerated after
26 conviction of a felony, regardless of whether the conviction has
27 been appealed. The committee shall, immediately upon receipt of
28 the certified copy of the record of conviction, determine whether
29 the license of the licensee has been automatically suspended by
30 virtue of his or her incarceration, and if so, the duration of that
31 suspension. The committee shall notify the licensee in writing of
32 the license suspension and of his or her right to elect to have the
33 issue of penalty heard as provided in subdivision (d).

34 (b) Upon receipt of the certified copy of the record of conviction,
35 if after a hearing before an administrative law judge from the Office
36 of Administrative Hearings it is determined that the felony for
37 which the licensee was convicted was substantially related to the
38 qualifications, functions, or duties of a licensee, the committee
39 shall suspend the license until the time for appeal has elapsed, if
40 no appeal has been taken, or until the judgment of conviction has

1 been affirmed on appeal or has otherwise become final, and until
2 further order of the committee.

3 (c) Notwithstanding subdivision (b), a conviction of a charge
4 of violating any federal statute or regulation or any statute or
5 regulation of this state, regulating dangerous drugs or controlled
6 substances, or a conviction of Section 187, 261, 262, or 288 of the
7 Penal Code, shall be conclusively presumed to be substantially
8 related to the qualifications, functions, or duties of a licensee and
9 no hearing shall be held on this issue. However, upon its own
10 motion or for good cause shown, the committee may decline to
11 impose or may set aside the suspension when it appears to be in
12 the interest of justice to do so, with due regard to maintaining the
13 integrity of, and confidence in, the practice regulated by the
14 committee.

15 (d) (1) Discipline may be ordered against a licensee in
16 accordance with the statutes and regulations of the committee when
17 the time for appeal has elapsed, the judgment of conviction has
18 been affirmed on appeal, or an order granting probation is made
19 suspending the imposition of sentence, irrespective of a subsequent
20 order under Section 1203.4 of the Penal Code allowing the person
21 to withdraw his or her plea of guilty and to enter a plea of not
22 guilty, setting aside the verdict of guilty, or dismissing the
23 accusation, complaint, information, or indictment.

24 (2) The issue of penalty shall be heard by an administrative law
25 judge from the Office of Administrative Hearings. The hearing
26 shall not be ~~had~~ *held* until the judgment of conviction has become
27 final or, irrespective of a subsequent order under Section 1203.4
28 of the Penal Code, an order granting probation has been made
29 suspending the imposition of sentence; except that a licensee may,
30 at his or her option, elect to have the issue of penalty decided before
31 those time periods have elapsed. Where the licensee so elects, the
32 issue of penalty shall be heard in the manner described in
33 subdivision (b) at the hearing to determine whether the conviction
34 was substantially related to the qualifications, functions, or duties
35 of a licensee. If the conviction of a licensee who has made this
36 election is overturned on appeal, any discipline ordered pursuant
37 to this section shall automatically cease. Nothing in this subdivision
38 shall prohibit the committee from pursuing disciplinary action
39 based on any cause other than the overturned conviction.

1 (e) The record of the proceedings resulting in a conviction,
2 including a transcript of the testimony in those proceedings, may
3 be received in evidence.

4 (f) Any other provision of law setting forth a procedure for the
5 suspension or revocation of a license issued by the committee shall
6 not apply to proceedings conducted pursuant to this section.

7 ~~SEC. 118.~~

8 *SEC. 103.* Section 3531.4 is added to the Business and
9 Professions Code, to read:

10 3531.4. (a) Except as otherwise provided, any proposed
11 decision or decision issued in accordance with the procedures set
12 forth in Chapter 5 (commencing with Section 11500) of Part 1 of
13 Division 3 of Title 2 of the Government Code, that contains any
14 finding of fact that the licensee engaged in any act of sexual contact
15 with a patient, as defined in subdivision (c) of Section 729, or any
16 finding that the licensee has committed a sex offense, shall contain
17 an order revoking the license. The proposed decision shall not
18 contain any order staying the revocation of the licensee.

19 (b) As used in this section, the term ~~sex offense~~ “*sex offense*”
20 shall mean any of the following:

21 (1) Any offense for which registration is required by Section
22 290 of the Penal Code or a finding that a person committed such
23 an act.

24 (2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1,~~
25 ~~or 647(a) or (d) of the Penal Code~~ *subdivisions (a) to (d), inclusive,*
26 *of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d)*
27 *of Section 647 of the Penal Code*, or a finding that a person
28 committed such an act.

29 (3) Any attempt to commit any of the offenses specified in this
30 section.

31 (4) Any offense committed or attempted in any other state or
32 against the laws of the United States which, if committed or
33 attempted in this state, would have been punishable as one or more
34 of the offenses specified in this section.

35 ~~SEC. 119.~~ ~~Section 3531.5 is added to the Business and~~
36 ~~Professions Code, to read:~~

37 ~~3531.5. (a) Except as otherwise provided, with regard to an~~
38 ~~individual who is required to register as a sex offender pursuant~~
39 ~~to Section 290 of the Penal Code, or the equivalent in another state~~

1 or territory, under military law, or under federal law, the committee
2 shall be subject to the following requirements:

3 (1) ~~The committee shall deny an application by the individual~~
4 ~~for licensure in accordance with the procedures set forth in Chapter~~
5 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
6 ~~Title 2 of the Government Code.~~

7 (2) ~~If the individual is licensed under this chapter, the committee~~
8 ~~shall promptly revoke the license of the individual in accordance~~
9 ~~with the procedures set forth in Chapter 5 (commencing with~~
10 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
11 ~~Code. The committee shall not stay the revocation and place the~~
12 ~~license on probation.~~

13 (3) ~~The committee shall not reinstate or reissue the individual's~~
14 ~~license. The committee shall not issue a stay of license denial nor~~
15 ~~place the license on probation.~~

16 (b) ~~This section shall not apply to any of the following:~~

17 (1) ~~An individual who has been relieved under Section 290.5~~
18 ~~of the Penal Code of his or her duty to register as a sex offender,~~
19 ~~or whose duty to register has otherwise been formally terminated~~
20 ~~under California law or the law of the jurisdiction that requires his~~
21 ~~or her registration as a sex offender.~~

22 (2) ~~An individual who is required to register as a sex offender~~
23 ~~pursuant to Section 290 of the Penal Code solely because of a~~
24 ~~misdemeanor conviction under Section 314 of the Penal Code.~~
25 ~~However, nothing in this paragraph shall prohibit the committee~~
26 ~~from exercising its discretion to discipline a licensee under any~~
27 ~~other provision of state law based upon the licensee's conviction~~
28 ~~under Section 314 of the Penal Code.~~

29 (3) ~~Any administrative adjudication proceeding under Chapter~~
30 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
31 ~~Title 2 of the Government Code that is fully adjudicated prior to~~
32 ~~January 1, 2008. A petition for reinstatement of a revoked or~~
33 ~~surrendered license shall be considered a new proceeding for~~
34 ~~purposes of this paragraph, and the prohibition against reinstating~~
35 ~~a license to an individual who is required to register as a sex~~
36 ~~offender shall be applicable.~~

37 SEC. 120. ~~Section 3531.6 is added to the Business and~~
38 ~~Professions Code, to read:~~

39 3531.6. (a) ~~Notwithstanding any other provision of law making~~
40 ~~a communication between a licensee and his or her patients a~~

1 ~~privileged communication, those provisions shall not apply to~~
2 ~~investigations or proceedings conducted by the committee.~~
3 ~~Members of the committee, deputies, employees, agents, the office~~
4 ~~of the Attorney General, and representatives of the committee shall~~
5 ~~keep in confidence during the course of investigations the names~~
6 ~~of any patients whose records are reviewed and may not disclose~~
7 ~~or reveal those names, except as is necessary during the course of~~
8 ~~an investigation, unless and until proceedings are instituted. The~~
9 ~~authority under this subdivision to examine records of patients in~~
10 ~~the office of a licensee is limited to records of patients who have~~
11 ~~complained to the committee about that licensee.~~

12 ~~(b) Notwithstanding any other provision of law, the Attorney~~
13 ~~General and his or her investigative agents, and the committee and~~
14 ~~its investigators and representatives may inquire into any alleged~~
15 ~~violation of the laws under the jurisdiction of the committee or~~
16 ~~any other federal or state law, regulation, or rule relevant to the~~
17 ~~practice regulated by the committee, whichever is applicable, and~~
18 ~~may inspect documents relevant to those investigations in~~
19 ~~accordance with the following procedures:~~

20 ~~(1) Any document relevant to an investigation may be inspected,~~
21 ~~and copies may be obtained, where a patient provides written~~
22 ~~authorization.~~

23 ~~(2) Any document relevant to the business operations of a~~
24 ~~licensee, and not involving medical records attributable to~~
25 ~~identifiable patients, may be inspected and copied where relevant~~
26 ~~to an investigation of a licensee.~~

27 ~~(c) In all cases where documents are inspected or copies of those~~
28 ~~documents are received, their acquisition or review shall be~~
29 ~~arranged so as not to unnecessarily disrupt the medical and business~~
30 ~~operations of the licensee or of the facility where the records are~~
31 ~~kept or used.~~

32 ~~(d) Where certified documents are lawfully requested from~~
33 ~~licensees in accordance with this section by the Attorney General~~
34 ~~or his or her agents or deputies, or investigators of the committee,~~
35 ~~the documents shall be provided within 10 business days of receipt~~
36 ~~of the request, unless the licensee is unable to provide the certified~~
37 ~~documents within this time period for good cause, including, but~~
38 ~~not limited to, physical inability to access the records in the time~~
39 ~~allowed due to illness or travel. Failure to produce requested~~
40 ~~certified documents or copies thereof, after being informed of the~~

1 required deadline, shall constitute unprofessional conduct. The
2 committee may use its authority to cite and fine a licensee for any
3 violation of this section. This remedy is in addition to any other
4 authority of the committee to sanction a licensee for a delay in
5 producing requested records.

6 (e) ~~Searches conducted of the office or medical facility of any~~
7 ~~licensee shall not interfere with the recordkeeping format or~~
8 ~~preservation needs of any licensee necessary for the lawful care~~
9 ~~of patients.~~

10 (f) ~~The licensee shall cooperate with the committee in furnishing~~
11 ~~information or assistance as may be required, including, but not~~
12 ~~limited to, participation in an interview with investigators or~~
13 ~~representatives of the committee.~~

14 (g) ~~This section shall not apply to a licensee who does not have~~
15 ~~access to, and control over, certified medical records or other types~~
16 ~~of documents that belong to or are controlled by a health facility~~
17 ~~or clinic.~~

18 SEC. 121. ~~Section 3531.7 is added to the Business and~~
19 ~~Professions Code, to read:~~

20 3531.7. (a) (1) ~~Notwithstanding any other provision of law,~~
21 ~~a licensee who fails or refuses to comply with a request for the~~
22 ~~certified medical records of a patient that is accompanied by that~~
23 ~~patient's written authorization for release of records to the~~
24 ~~committee together with a notice citing this section and describing~~
25 ~~the penalties for failure to comply with this section shall be~~
26 ~~required to pay to the committee a civil penalty of up to one~~
27 ~~thousand dollars (\$1,000) per day for each day that the documents~~
28 ~~have not been produced after the 15th day, up to ten thousand~~
29 ~~dollars (\$10,000), unless the licensee is unable to provide the~~
30 ~~documents within this time period for good cause.~~

31 (2) ~~A health care facility shall comply with a request for the~~
32 ~~certified medical records of a patient that is accompanied by that~~
33 ~~patient's written authorization for release of records to the~~
34 ~~committee together with a notice citing this section and describing~~
35 ~~the penalties for failure to comply with this section. Failure to~~
36 ~~provide the authorizing patient's certified medical records to the~~
37 ~~committee within 15 days of receiving the request, authorization,~~
38 ~~and notice shall subject the health care facility to a civil penalty,~~
39 ~~payable to the committee, of up to one thousand dollars (\$1,000)~~
40 ~~per day for each day that the documents have not been produced~~

1 after the 15th day, up to ten thousand dollars (\$10,000), unless the
2 health care facility is unable to provide the documents within this
3 time period for good cause. This paragraph shall not require health
4 care facilities to assist the committee in obtaining the patient's
5 authorization. The committee shall pay the reasonable costs of
6 copying the certified medical records, but shall not be required to
7 make that payment prior to the production of the medical records.

8 (b) (1) A licensee who fails or refuses to comply with a court
9 order, issued in the enforcement of a subpoena, mandating the
10 release of records to the committee, shall pay to the committee a
11 civil penalty of up to one thousand dollars (\$1,000) per day for
12 each day that the documents have not been produced after the date
13 by which the court order requires the documents to be produced,
14 up to ten thousand dollars (\$10,000), unless it is determined that
15 the order is unlawful or invalid. Any statute of limitations
16 applicable to the filing of an accusation by the committee shall be
17 tolled during the period the licensee is out of compliance with the
18 court order and during any related appeals.

19 (2) Any licensee who fails or refuses to comply with a court
20 order, issued in the enforcement of a subpoena, mandating the
21 release of records to the committee is guilty of a misdemeanor
22 punishable by a fine payable to the committee not to exceed five
23 thousand dollars (\$5,000). The fine shall be added to the licensee's
24 renewal fee if it is not paid by the next succeeding renewal date.
25 Any statute of limitations applicable to the filing of an accusation
26 by the committee shall be tolled during the period the licensee is
27 out of compliance with the court order and during any related
28 appeals.

29 (3) A health care facility that fails or refuses to comply with a
30 court order, issued in the enforcement of a subpoena, mandating
31 the release of patient records to the committee, that is accompanied
32 by a notice citing this section and describing the penalties for
33 failure to comply with this section, shall pay to the committee a
34 civil penalty of up to one thousand dollars (\$1,000) per day for
35 each day that the documents have not been produced, up to ten
36 thousand dollars (\$10,000), after the date by which the court order
37 requires the documents to be produced, unless it is determined that
38 the order is unlawful or invalid. Any statute of limitations
39 applicable to the filing of an accusation by the committee against
40 a licensee shall be tolled during the period the health care facility

1 is out of compliance with the court order and during any related
2 appeals.

3 (4) ~~Any health care facility that fails or refuses to comply with~~
4 ~~a court order, issued in the enforcement of a subpoena, mandating~~
5 ~~the release of records to the committee is guilty of a misdemeanor~~
6 ~~punishable by a fine payable to the committee not to exceed five~~
7 ~~thousand dollars (\$5,000). Any statute of limitations applicable to~~
8 ~~the filing of an accusation by the committee against a licensee~~
9 ~~shall be tolled during the period the health care facility is out of~~
10 ~~compliance with the court order and during any related appeals.~~

11 (e) ~~Multiple acts by a licensee in violation of subdivision (b)~~
12 ~~shall be punishable by a fine not to exceed five thousand dollars~~
13 ~~(\$5,000) or by imprisonment in a county jail not exceeding six~~
14 ~~months, or by both that fine and imprisonment. Multiple acts by~~
15 ~~a health care facility in violation of subdivision (b) shall be~~
16 ~~punishable by a fine not to exceed five thousand dollars (\$5,000);~~
17 ~~shall be reported to the State Department of Public Health, and~~
18 ~~shall be considered as grounds for disciplinary action with respect~~
19 ~~to licensure, including suspension or revocation of the license or~~
20 ~~certificate.~~

21 (d) ~~A failure or refusal of a licensee to comply with a court~~
22 ~~order, issued in the enforcement of a subpoena, mandating the~~
23 ~~release of records to the committee constitutes unprofessional~~
24 ~~conduct and is grounds for suspension or revocation of his or her~~
25 ~~license.~~

26 (e) ~~Imposition of the civil penalties authorized by this section~~
27 ~~shall be in accordance with the Administrative Procedure Act~~
28 ~~(Chapter 5 (commencing with Section 11500) of Division 3 of~~
29 ~~Title 2 of the Government Code). Any civil penalties paid to, or~~
30 ~~received by, the committee pursuant to this section shall be~~
31 ~~deposited into the fund administered by the committee.~~

32 (f) ~~For purposes of this section, “certified medical records”~~
33 ~~means a copy of the patient’s medical records authenticated by the~~
34 ~~licensee or health care facility, as appropriate, on a form prescribed~~
35 ~~by the committee.~~

36 (g) ~~For purposes of this section, a “health care facility” means~~
37 ~~a clinic or health facility licensed or exempt from licensure~~
38 ~~pursuant to Division 2 (commencing with Section 1200) of the~~
39 ~~Health and Safety Code.~~

1 ~~(h) If the committee complies with Section 1684.1, 2225.5, or~~
2 ~~2969, the committee shall not be subject to the requirements of~~
3 ~~this section.~~

4 ~~(i) This section shall not apply to a licensee who does not have~~
5 ~~access to, or control over, certified medical records or other types~~
6 ~~of documents that belong to or are controlled by a health facility~~
7 ~~or clinic.~~

8 ~~SEC. 122.~~

9 *SEC. 104.* Section 3531.8 is added to the Business and
10 Professions Code, to read:

11 3531.8. (a) Notwithstanding any other provision of law, any
12 employer of a licensee shall report to the committee the suspension
13 or termination for cause, or any resignation in lieu of suspension
14 or termination for cause, of any licensee in its employ within 15
15 business days. The report shall not be made until after the
16 conclusion of the review process specified in Section 52.3 of Title
17 2 of the California Code of Regulations and *Skelly v. State*
18 *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This
19 required reporting shall not constitute a waiver of confidentiality
20 of medical records. The information reported or disclosed shall be
21 kept confidential except as provided in subdivision (c) of Section
22 800 and shall not be subject to discovery in civil cases.

23 (b) The information to be reported by the employer shall include
24 the name and license number of the licensee involved, a
25 description of the facts and circumstances of the suspension or
26 termination for cause, any resignation in lieu of suspension or
27 termination for cause, and any other relevant information deemed
28 appropriate by the employer.

29 (c) The committee shall be entitled to inspect and copy the
30 following documents in the record for any suspension or
31 termination for cause, or any resignation in lieu of suspension or
32 termination for cause, resulting in action that is required to be
33 reported pursuant to this section:

34 (1) Any statement for suspension or termination of the licensee.

35 (2) Any document or exhibits relevant to the suspension or
36 termination.

37 (d) If, during the investigation by the committee of the cause
38 for the termination or suspension or resignation of the licensee, it
39 is found that there has been a violation of existing state or federal

1 law, the committee shall report the violation to the appropriate
2 agency.

3 (e) For purposes of this section, “suspension or termination for
4 cause” or “resignation in lieu of suspension or termination for
5 cause” is defined as resignation, suspension, or termination from
6 employment for any of the following reasons:

7 (1) Use of controlled substances or alcohol to the extent that it
8 impairs the licensee’s ability to safely practice.

9 (2) Unlawful sale of a controlled substance or other prescription
10 items.

11 (3) Patient or client abuse, neglect, physical harm, or sexual
12 contact with a patient or client.

13 (4) Gross negligence or incompetence.

14 (5) Theft from a patient or client, any other employee, or the
15 employer.

16 (f) As used in this section, the following definitions apply:

17 (1) “Gross negligence” means a substantial departure from the
18 standard of care, which, under similar circumstances, would have
19 ordinarily been exercised by a competent licensee, and which has
20 or could have resulted in harm to the consumer. An exercise of so
21 slight a degree of care as to justify the belief that there was a
22 conscious disregard or indifference for the health, safety, or welfare
23 of the consumer shall be considered a substantial departure from
24 the standard of care.

25 (2) “Incompetence” means the lack of possession of, and the
26 failure to exercise that degree of learning, skill, care, and
27 experience ordinarily possessed by, a responsible licensee.

28 (3) “Willful” means a knowing and intentional violation of a
29 known legal duty.

30 (g) (1) Willful failure of an employer to make a report required
31 by this section is punishable by an administrative fine not to exceed
32 one hundred thousand dollars (\$100,000) per violation.

33 (2) Any failure of an employer, other than willful failure, to
34 make a report required by this section is punishable by an
35 administrative fine not to exceed fifty thousand dollars (\$50,000).

36 (h) The committee shall investigate the circumstances underlying
37 any report received pursuant to this section within 30 days to
38 determine if an interim suspension order or temporary restraining
39 order should be issued. The committee shall otherwise provide
40 timely disposition of the reports received pursuant to this section.

1 (i) The committee shall send to the licentiate a copy of the report
2 along with the reasons for the filing of the report and notice
3 advising the licentiate of his or her right to submit additional
4 statements or other information to the committee.

5 (j) Pursuant to Section 43.8 of the Civil Code, no person shall
6 incur any civil penalty as a result of making any report required
7 by this article.

8 (k) No report is required under this section where a report of
9 the action taken is already required under Section 805.

10 ~~SEC. 123.~~

11 *SEC. 105.* Section 3531.9 is added to the Business and
12 Professions Code, to read:

13 3531.9. Unless otherwise provided, on or after July 1, ~~2013~~
14 ~~2014~~, the committee shall post on its Internet Web site the
15 following information, including the name and license number, in
16 its possession, custody, or control regarding every licensee ~~for~~
17 ~~which~~ *whom* the committee licenses:

18 (a) With regard to the status of every license, whether or not
19 the licensee or former licensee is in good standing, subject to a
20 temporary restraining order, subject to an interim suspension order,
21 subject to a restriction or cease practice ordered pursuant to Section
22 23 of the Penal Code, or subject to any of the enforcement actions
23 described in Section 803.1.

24 (b) With regard to prior discipline of a licensee, whether or not
25 the licensee or former licensee has been subject to discipline by
26 the board or by the committee of another state or jurisdiction, as
27 described in Section 803.1.

28 (c) Any felony conviction of a licensee reported to the
29 committee.

30 (d) All current accusations filed by the Attorney General,
31 including those accusations that are on appeal. For purposes of
32 this paragraph, “current accusation” means an accusation that has
33 not been dismissed, withdrawn, or settled, and has not been finally
34 decided upon by an administrative law judge and the committee
35 unless an appeal of that decision is pending.

36 (e) Any malpractice judgment or arbitration award imposed
37 against a licensee and reported to the committee.

38 (f) Any hospital disciplinary action imposed against a licensee
39 that resulted in the termination or revocation of a licensee’s hospital

1 staff privileges for a medical disciplinary cause or reason pursuant
2 to Section ~~3531.7~~ or 805.

3 (g) Any misdemeanor conviction of a licensee that results in a
4 disciplinary action or an accusation that is not subsequently
5 withdrawn or dismissed.

6 (h) Appropriate disclaimers and explanatory statements to
7 accompany the above information, including an explanation of
8 what types of information are not disclosed. These disclaimers and
9 statements shall be developed by the committee and shall be
10 adopted by regulation.

11 (i) The information provided on the Internet shall be in
12 accordance with the California Public Records Act (Chapter 3.5
13 (commencing with Section 6250) of Division 7 of Title 1 of the
14 Government Code) and the Information Practices Act of 1977
15 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
16 4 of Division 3 of the Civil Code) and shall comply with the
17 Department of Consumer Affairs Guidelines for Access to Public
18 Records.

19 (j) Information provided on the Internet may not include
20 personal information, unless otherwise provided pursuant to this
21 chapter, including the home telephone number, date of birth, or
22 social security number. The information may not include the
23 licensee's address, but may include the city and county of the
24 licensee's address of record.

25 ~~SEC. 124.~~

26 *SEC. 106.* Section 3531.10 is added to the Business and
27 Professions Code, to read:

28 3531.10. (a) Unless otherwise provided, if a licensee possesses
29 a license or is otherwise authorized to practice in any state other
30 than California or by any agency of the federal government and
31 that license or authority is suspended or revoked outright, the
32 California license of the licensee shall be suspended automatically
33 for the duration of the suspension or revocation, unless terminated
34 or rescinded as provided in subdivision (c). The committee shall
35 notify the licensee of the license suspension and of his or her right
36 to have the issue of penalty heard as provided in this section.

37 (b) Upon its own motion or for good cause shown, the committee
38 may decline to impose or may set aside the suspension when it
39 appears to be in the interest of justice to do so, with due regard to

1 maintaining the integrity of, and confidence in, the specific healing
2 art.

3 (c) The issue of penalty shall be heard by an administrative law
4 judge sitting alone or with a panel of the committee, in the
5 discretion of the committee. A licensee may request a hearing on
6 the penalty and that hearing shall be held within 90 days from the
7 date of the request. If the order suspending or revoking the license
8 or authority to practice is overturned on appeal, any discipline
9 ordered pursuant to this section shall automatically cease. Upon a
10 showing to the administrative law judge or panel by the licensee
11 that the out-of-state action is not a basis for discipline in California,
12 the suspension shall be rescinded. If an accusation for permanent
13 discipline is not filed within 90 days of the suspension imposed
14 pursuant to this section, the suspension shall automatically
15 terminate.

16 (d) The record of the proceedings that resulted in the suspension
17 or revocation of the licensee's out-of-state license or authority to
18 practice, including a transcript of the testimony therein, may be
19 received in evidence.

20 (e) This section shall not apply to a licensee who maintains his
21 or her primary practice in California, as evidenced by having
22 maintained a practice in this state for not less than one year
23 immediately preceding the date of suspension or revocation.
24 Nothing in this section shall preclude a licensee's license from
25 being suspended pursuant to any other provision of law.

26 (f) This section shall not apply to a licensee whose license has
27 been surrendered, whose only discipline is a medical staff
28 disciplinary action at a federal hospital and not for medical
29 disciplinary cause or reason as that term is defined in Section 805,
30 or whose revocation or suspension has been stayed, even if the
31 licensee remains subject to terms of probation or other discipline.

32 (g) This section shall not apply to a suspension or revocation
33 imposed by a state that is based solely on the prior discipline of
34 the licensee by another state.

35 (h) The other provisions of this article setting forth a procedure
36 for the suspension or revocation of a licensee's license or certificate
37 shall not apply to summary suspensions issued pursuant to this
38 section. If a summary suspension has been issued pursuant to this
39 section, the licensee may request that the hearing on the penalty

1 conducted pursuant to subdivision (c) be held at the same time as
2 a hearing on the accusation.

3 ~~(i) If the committee complies with Section 2310 it shall not be~~
4 ~~subject to the requirements of this section.~~

5 *SEC. 107. Section 3533.5 is added to the Business and*
6 *Professions Code, to read:*

7 *3533.5. Notwithstanding any other provision of law, it is a*
8 *public offense, punishable by a fine not to exceed one hundred*
9 *thousand dollars (\$100,000), by imprisonment in a county jail not*
10 *to exceed one year, or by both that fine and imprisonment, for:*

11 *(a) Any person who does not hold a current and valid physician*
12 *assistant license to engage in that practice.*

13 *(b) Any person to fraudulently buy, sell, or obtain a physician*
14 *assistant license or to violate any provision of this chapter.*

15 *SEC. 108. Section 3534 of the Business and Professions Code*
16 *is amended to read:*

17 *3534. (a) It is the intent of the Legislature that the examining*
18 *committee shall seek ways and means to identify and rehabilitate*
19 *physician assistants whose competency is impaired due to abuse*
20 *of dangerous drugs or alcohol so that they may be treated and*
21 *returned to the practice of medicine in a manner which will not*
22 *endanger the public health and safety.*

23 *(b) It is the intent of the Legislature, through a request in 2013*
24 *from the Joint Legislative Audit Committee, that the Bureau of*
25 *State Audits conduct a thorough performance audit of the*
26 *examining committee's diversion program to evaluate the*
27 *effectiveness and efficiency of the program, and make*
28 *recommendations regarding the continuation of the program and*
29 *any changes or reforms required to ensure that physician assistants*
30 *participating in the program are appropriately monitored and that*
31 *the public is protected from physician assistants who are impaired*
32 *due to alcohol or drug abuse or mental or physical illness. The*
33 *audit shall be completed by January 1, 2014. The board and its*
34 *staff shall cooperate with the audit, and the board shall provide*
35 *data, information, and case files as requested by the auditor to*
36 *perform all of his or her duties. The provision of confidential data,*
37 *information, and case files by the board to the auditor shall not*
38 *constitute a waiver of any exemption from disclosure or discovery*
39 *or of any confidentiality protection or privilege otherwise provided*
40 *by law that is applicable to the data, information, or case files.*

1 (c) *It is the intent of the Legislature that the audit be paid for*
2 *with funds from the Physician Assistant Fund.*

3 SEC. 109. Section 3664.5 is added to the Business and
4 Professions Code, to read:

5 3664.5. *Notwithstanding any other provision of law, it is a*
6 *public offense, punishable by a fine not to exceed one hundred*
7 *thousand dollars (\$100,000), by imprisonment in a county jail not*
8 *to exceed one year, or by both that fine and imprisonment, for:*

9 (a) *Any person who does not hold a current and valid license*
10 *to practice naturopathic medicine to engage in that practice.*

11 (b) *Any person to fraudulently buy, sell, or obtain a license to*
12 *practice naturopathic medicine or to violate any provision of this*
13 *chapter.*

14 ~~SEC. 125.~~

15 SEC. 110. Section 3665 is added to the Business and
16 Professions Code, to read:

17 3665. (a) The committee may delegate to its executive officer
18 the authority to adopt a proposed default decision where an
19 administrative action to revoke a license has been filed and the
20 licensee has failed to file a notice of defense or to appear at the
21 hearing and a proposed default decision revoking the license has
22 been issued.

23 (b) The committee may delegate to its executive officer the
24 authority to adopt a proposed settlement agreement where an
25 administrative action to revoke a license has been filed by the
26 committee and the licensee has agreed to the revocation or
27 surrender of his or her license.

28 (c) The executive officer shall, at scheduled committee meetings,
29 report to the committee the number of proposed default decisions
30 or proposed settlement agreements adopted pursuant to this section.

31 ~~SEC. 126.~~

32 SEC. 111. Section 3665.1 is added to the Business and
33 Professions Code, to read:

34 3665.1. (a) Notwithstanding Section 11415.60 of the
35 Government Code, the committee may enter into a settlement with
36 a licensee or applicant in lieu of the issuance of an accusation or
37 statement of issues against that licensee or applicant, as applicable.

38 (b) The settlement shall include language identifying the factual
39 basis for the action being taken and a list of the statutes or
40 regulations violated.

1 (c) A person who enters *into* a settlement pursuant to this section
2 is not precluded from filing a petition, in the timeframe permitted
3 by law, to modify the terms of the settlement or petition for early
4 termination of probation, if probation is part of the settlement.

5 (d) Any settlement against a licensee executed pursuant to this
6 section shall be considered discipline and a public record and shall
7 be posted on the applicable committee's Internet Web site. Any
8 settlement against an applicant executed pursuant to this section
9 shall be considered a public record and shall be posted on the
10 applicable committee's Internet Web site.

11 (e) The executive officer shall, at scheduled committee meetings,
12 report to the committee the number of proposed settlement
13 agreements adopted pursuant to this section.

14 ~~SEC. 127.~~

15 *SEC. 112.* Section 3665.2 is added to the Business and
16 Professions Code, to read:

17 3665.2. (a) The license of a licensee shall be suspended
18 automatically during any time that the licensee is incarcerated after
19 conviction of a felony, regardless of whether the conviction has
20 been appealed. The committee shall, immediately upon receipt of
21 the certified copy of the record of conviction, determine whether
22 the license of the licensee has been automatically suspended by
23 virtue of his or her incarceration, and if so, the duration of that
24 suspension. The committee shall notify the licensee in writing of
25 the license suspension and of his or her right to elect to have the
26 issue of penalty heard as provided in subdivision (d).

27 (b) Upon receipt of the certified copy of the record of conviction,
28 if after a hearing before an administrative law judge from the Office
29 of Administrative Hearings it is determined that the felony for
30 which the licensee was convicted was substantially related to the
31 qualifications, functions, or duties of a licensee, the committee
32 shall suspend the license until the time for appeal has elapsed, if
33 no appeal has been taken, or until the judgment of conviction has
34 been affirmed on appeal or has otherwise become final, and until
35 further order of the committee.

36 (c) Notwithstanding subdivision (b), a conviction of a charge
37 of violating any federal statute or regulation or any statute or
38 regulation of this state, regulating dangerous drugs or controlled
39 substances, or a conviction of Section 187, 261, 262, or 288 of the
40 Penal Code, shall be conclusively presumed to be substantially

1 related to the qualifications, functions, or duties of a licensee and
2 no hearing shall be held on this issue. However, upon its own
3 motion or for good cause shown, the committee may decline to
4 impose or may set aside the suspension when it appears to be in
5 the interest of justice to do so, with due regard to maintaining the
6 integrity of, and confidence in, the practice regulated by the
7 committee.

8 (d) (1) Discipline may be ordered against a licensee in
9 accordance with the statutes and regulations of the committee when
10 the time for appeal has elapsed, the judgment of conviction has
11 been affirmed on appeal, or an order granting probation is made
12 suspending the imposition of sentence, irrespective of a subsequent
13 order under Section 1203.4 of the Penal Code allowing the person
14 to withdraw his or her plea of guilty and to enter a plea of not
15 guilty, setting aside the verdict of guilty, or dismissing the
16 accusation, complaint, information, or indictment.

17 (2) The issue of penalty shall be heard by an administrative law
18 judge from the Office of Administrative Hearings. The hearing
19 shall not be ~~had~~ *held* until the judgment of conviction has become
20 final or, irrespective of a subsequent order under Section 1203.4
21 of the Penal Code, an order granting probation has been made
22 suspending the imposition of sentence; except that a licensee may,
23 at his or her option, elect to have the issue of penalty decided before
24 those time periods have elapsed. Where the licensee so elects, the
25 issue of penalty shall be heard in the manner described in
26 subdivision (b) at the hearing to determine whether the conviction
27 was substantially related to the qualifications, functions, or duties
28 of a licensee. If the conviction of a licensee who has made this
29 election is overturned on appeal, any discipline ordered pursuant
30 to this section shall automatically cease. Nothing in this subdivision
31 shall prohibit the board from pursuing disciplinary action based
32 on any cause other than the overturned conviction.

33 (e) The record of the proceedings resulting in a conviction,
34 including a transcript of the testimony in those proceedings, may
35 be received in evidence.

36 (f) Any other provision of law setting forth a procedure for the
37 suspension or revocation of a license issued by the board shall not
38 apply to proceedings conducted pursuant to this section.

1 ~~SEC. 128.~~

2 *SEC. 113.* Section 3665.3 is added to the Business and
3 Professions Code, to read:

4 3665.3. (a) Except as otherwise provided, any proposed
5 decision or decision issued in accordance with the procedures set
6 forth in Chapter 5 (commencing with Section 11500) of Part 1 of
7 Division 3 of Title 2 of the Government Code, that contains any
8 finding of fact that the licensee engaged in any act of sexual contact
9 with a patient, as defined in subdivision (c) of Section 729, or any
10 finding that the licensee has committed a sex offense, shall contain
11 an order revoking the license. The proposed decision shall not
12 contain any order staying the revocation of the licensee.

13 (b) As used in this section, the term ~~sex offense~~ “*sex offense*”
14 shall mean any of the following:

15 (1) Any offense for which registration is required by Section
16 290 of the Penal Code or a finding that a person committed such
17 an act.

18 (2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1,~~
19 ~~or 647(a) or (d) of the Penal Code~~ *subdivisions (a) to (d), inclusive,*
20 *of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d)*
21 *of Section 647 of the Penal Code*, or a finding that a person
22 committed such an act.

23 (3) Any attempt to commit any of the offenses specified in this
24 section.

25 (4) Any offense committed or attempted in any other state or
26 against the laws of the United States which, if committed or
27 attempted in this state, would have been punishable as one or more
28 of the offenses specified in this section.

29 ~~SEC. 129.~~ Section 3665.4 is added to the Business and
30 Professions Code, to read:

31 ~~3665.4. (a) Except as otherwise provided, with regard to an~~
32 ~~individual who is required to register as a sex offender pursuant~~
33 ~~to Section 290 of the Penal Code, or the equivalent in another state~~
34 ~~or territory, under military law, or under federal law, the committee~~
35 ~~shall be subject to the following requirements:~~

36 ~~(1) The committee shall deny an application by the individual~~
37 ~~for licensure in accordance with the procedures set forth in Chapter~~
38 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
39 ~~Title 2 of the Government Code.~~

1 ~~(2) If the individual is licensed under this chapter, the committee~~
2 ~~shall promptly revoke the license of the individual in accordance~~
3 ~~with the procedures set forth in Chapter 5 (commencing with~~
4 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
5 ~~Code. The committee shall not stay the revocation and place the~~
6 ~~license on probation.~~

7 ~~(3) The committee shall not reinstate or reissue the individual's~~
8 ~~license. The board shall not issue a stay of license denial nor place~~
9 ~~the license on probation.~~

10 ~~(b) This section shall not apply to any of the following:~~

11 ~~(1) An individual who has been relieved under Section 290.5~~
12 ~~of the Penal Code of his or her duty to register as a sex offender,~~
13 ~~or whose duty to register has otherwise been formally terminated~~
14 ~~under California law or the law of the jurisdiction that requires his~~
15 ~~or her registration as a sex offender.~~

16 ~~(2) An individual who is required to register as a sex offender~~
17 ~~pursuant to Section 290 of the Penal Code solely because of a~~
18 ~~misdemeanor conviction under Section 314 of the Penal Code.~~
19 ~~However, nothing in this paragraph shall prohibit the committee~~
20 ~~from exercising its discretion to discipline a licensee under any~~
21 ~~other provision of state law based upon the licensee's conviction~~
22 ~~under Section 314 of the Penal Code.~~

23 ~~(3) Any administrative adjudication proceeding under Chapter~~
24 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
25 ~~Title 2 of the Government Code that is fully adjudicated prior to~~
26 ~~January 1, 2008. A petition for reinstatement of a revoked or~~
27 ~~surrendered license shall be considered a new proceeding for~~
28 ~~purposes of this paragraph, and the prohibition against reinstating~~
29 ~~a license to an individual who is required to register as a sex~~
30 ~~offender shall be applicable.~~

31 ~~SEC. 130. Section 3665.5 is added to the Business and~~
32 ~~Professions Code, to read:~~

33 ~~3665.5. (a) Notwithstanding any other provision of law making~~
34 ~~a communication between a licensee and his or her patients a~~
35 ~~privileged communication, those provisions shall not apply to~~
36 ~~investigations or proceedings conducted by the board. Members~~
37 ~~of the board, deputies, employees, agents, the office of the Attorney~~
38 ~~General, and representatives of the board shall keep in confidence~~
39 ~~during the course of investigations the names of any patients whose~~
40 ~~records are reviewed and may not disclose or reveal those names,~~

1 except as is necessary during the course of an investigation, unless
2 and until proceedings are instituted. The authority under this
3 subdivision to examine records of patients in the office of a licensee
4 is limited to records of patients who have complained to the board
5 about that licensee.

6 (b) ~~Notwithstanding any other provision of law, the Attorney~~
7 ~~General and his or her investigative agents, and the committee and~~
8 ~~its investigators and representatives may inquire into any alleged~~
9 ~~violation of the laws under the jurisdiction of the committee or~~
10 ~~any other federal or state law, regulation, or rule relevant to the~~
11 ~~practice regulated by the committee, whichever is applicable, and~~
12 ~~may inspect documents relevant to those investigations in~~
13 ~~accordance with the following procedures:~~

14 (1) ~~Any document relevant to an investigation may be inspected,~~
15 ~~and copies may be obtained, where a patient provides written~~
16 ~~authorization.~~

17 (2) ~~Any document relevant to the business operations of a~~
18 ~~licensee, and not involving medical records attributable to~~
19 ~~identifiable patients, may be inspected and copied where relevant~~
20 ~~to an investigation of a licensee.~~

21 (c) ~~In all cases where documents are inspected or copies of those~~
22 ~~documents are received, their acquisition or review shall be~~
23 ~~arranged so as not to unnecessarily disrupt the medical and business~~
24 ~~operations of the licensee or of the facility where the records are~~
25 ~~kept or used.~~

26 (d) ~~Where certified documents are lawfully requested from~~
27 ~~licensees in accordance with this section by the Attorney General~~
28 ~~or his or her agents or deputies, or investigators of any board, the~~
29 ~~documents shall be provided within 10 business days of receipt of~~
30 ~~the request, unless the licensee is unable to provide the certified~~
31 ~~documents within this time period for good cause, including, but~~
32 ~~not limited to, physical inability to access the records in the time~~
33 ~~allowed due to illness or travel. Failure to produce requested~~
34 ~~certified documents or copies thereof, after being informed of the~~
35 ~~required deadline, shall constitute unprofessional conduct. The~~
36 ~~committee may use its authority to cite and fine a licensee for any~~
37 ~~violation of this section. This remedy is in addition to any other~~
38 ~~authority of the committee to sanction a licensee for a delay in~~
39 ~~producing requested records.~~

1 ~~(e) Searches conducted of the office or medical facility of any~~
2 ~~licensee shall not interfere with the recordkeeping format or~~
3 ~~preservation needs of any licensee necessary for the lawful care~~
4 ~~of patients.~~

5 ~~(f) The licensee shall cooperate with the board in furnishing~~
6 ~~information or assistance as may be required, including, but not~~
7 ~~limited to, participation in an interview with investigators or~~
8 ~~representatives of the committee.~~

9 ~~(g) This section shall not apply to a licensee who does not have~~
10 ~~access to, and control over, certified medical records or other types~~
11 ~~of documents that belong to or are controlled by a health facility~~
12 ~~or clinic.~~

13 ~~SEC. 131. Section 3665.6 is added to the Business and~~
14 ~~Professions Code, to read:~~

15 ~~3665.6. (a) (1) Notwithstanding any other provision of law,~~
16 ~~a licensee who fails or refuses to comply with a request for the~~
17 ~~certified medical records of a patient that is accompanied by that~~
18 ~~patient's written authorization for release of records to the~~
19 ~~committee together with a notice citing this section and describing~~
20 ~~the penalties for failure to comply with this section shall be~~
21 ~~required to pay to the board a civil penalty of up to one thousand~~
22 ~~dollars (\$1,000) per day for each day that the documents have not~~
23 ~~been produced after the 15th day, up to ten thousand dollars~~
24 ~~(\$10,000), unless the licensee is unable to provide the documents~~
25 ~~within this time period for good cause.~~

26 ~~(2) A health care facility shall comply with a request for the~~
27 ~~certified medical records of a patient that is accompanied by that~~
28 ~~patient's written authorization for release of records to the~~
29 ~~committee together with a notice citing this section and describing~~
30 ~~the penalties for failure to comply with this section. Failure to~~
31 ~~provide the authorizing patient's certified medical records to the~~
32 ~~board within 15 days of receiving the request, authorization, and~~
33 ~~notice shall subject the health care facility to a civil penalty,~~
34 ~~payable to the committee, of up to one thousand dollars (\$1,000)~~
35 ~~per day for each day that the documents have not been produced~~
36 ~~after the 15th day, up to ten thousand dollars (\$10,000), unless the~~
37 ~~health care facility is unable to provide the documents within this~~
38 ~~time period for good cause. This paragraph shall not require health~~
39 ~~care facilities to assist the committee in obtaining the patient's~~
40 ~~authorization. The committee shall pay the reasonable costs of~~

1 copying the certified medical records, but shall not be required to
2 make that payment prior to the production of the medical records.

3 (b) (1) A licensee who fails or refuses to comply with a court
4 order, issued in the enforcement of a subpoena, mandating the
5 release of records to the committee, shall pay to the committee a
6 civil penalty of up to one thousand dollars (\$1,000) per day for
7 each day that the documents have not been produced after the date
8 by which the court order requires the documents to be produced,
9 up to ten thousand dollars (\$10,000), unless it is determined that
10 the order is unlawful or invalid. Any statute of limitations
11 applicable to the filing of an accusation by the committee shall be
12 tolled during the period the licensee is out of compliance with the
13 court order and during any related appeals.

14 (2) Any licensee who fails or refuses to comply with a court
15 order, issued in the enforcement of a subpoena, mandating the
16 release of records to a board is guilty of a misdemeanor punishable
17 by a fine payable to the committee not to exceed five thousand
18 dollars (\$5,000). The fine shall be added to the licensee's renewal
19 fee if it is not paid by the next succeeding renewal date. Any statute
20 of limitations applicable to the filing of an accusation by the
21 committee shall be tolled during the period the licensee is out of
22 compliance with the court order and during any related appeals.

23 (3) A health care facility that fails or refuses to comply with a
24 court order, issued in the enforcement of a subpoena, mandating
25 the release of patient records to the committee, that is accompanied
26 by a notice citing this section and describing the penalties for
27 failure to comply with this section, shall pay to the committee a
28 civil penalty of up to one thousand dollars (\$1,000) per day for
29 each day that the documents have not been produced, up to ten
30 thousand dollars (\$10,000), after the date by which the court order
31 requires the documents to be produced, unless it is determined that
32 the order is unlawful or invalid. Any statute of limitations
33 applicable to the filing of an accusation by the committee against
34 a licensee shall be tolled during the period the health care facility
35 is out of compliance with the court order and during any related
36 appeals.

37 (4) Any health care facility that fails or refuses to comply with
38 a court order, issued in the enforcement of a subpoena, mandating
39 the release of records to a healing arts board is guilty of a
40 misdemeanor punishable by a fine payable to the committee not

1 to exceed five thousand dollars (\$5,000). Any statute of limitations
2 applicable to the filing of an accusation by the committee against
3 a licensee shall be tolled during the period the health care facility
4 is out of compliance with the court order and during any related
5 appeals.

6 ~~(e) Multiple acts by a licensee in violation of subdivision (b)~~
7 ~~shall be punishable by a fine not to exceed five thousand dollars~~
8 ~~(\$5,000) or by imprisonment in a county jail not exceeding six~~
9 ~~months, or by both that fine and imprisonment. Multiple acts by~~
10 ~~a health care facility in violation of subdivision (b) shall be~~
11 ~~punishable by a fine not to exceed five thousand dollars (\$5,000),~~
12 ~~shall be reported to the State Department of Public Health, and~~
13 ~~shall be considered as grounds for disciplinary action with respect~~
14 ~~to licensure, including suspension or revocation of the license or~~
15 ~~certificate.~~

16 ~~(d) A failure or refusal of a licensee to comply with a court~~
17 ~~order, issued in the enforcement of a subpoena, mandating the~~
18 ~~release of records to the committee constitutes unprofessional~~
19 ~~conduct and is grounds for suspension or revocation of his or her~~
20 ~~license.~~

21 ~~(e) Imposition of the civil penalties authorized by this section~~
22 ~~shall be in accordance with the Administrative Procedure Act~~
23 ~~(Chapter 5 (commencing with Section 11500) of Division 3 of~~
24 ~~Title 2 of the Government Code). Any civil penalties paid to, or~~
25 ~~received by, the committee pursuant to this section shall be~~
26 ~~deposited into the fund administered by the committee.~~

27 ~~(f) For purposes of this section, “certified medical records”~~
28 ~~means a copy of the patient’s medical records authenticated by the~~
29 ~~licensee or health care facility, as appropriate, on a form prescribed~~
30 ~~by the licensee’s board.~~

31 ~~(g) For purposes of this section, a “health care facility” means~~
32 ~~a clinic or health facility licensed or exempt from licensure~~
33 ~~pursuant to Division 2 (commencing with Section 1200) of the~~
34 ~~Health and Safety Code.~~

35 ~~(h) If the committee complies with Section 1684.1, 2225.5, or~~
36 ~~2969, the committee shall not be subject to the requirements of~~
37 ~~this section.~~

38 ~~(i) This section shall not apply to a licensee who does not have~~
39 ~~access to, or control over, certified medical records or other types~~

1 of documents that belong to or are controlled by a health facility
2 or clinic.

3 ~~SEC. 132.~~

4 *SEC. 114.* Section 3665.7 is added to the Business and
5 Professions Code, to read:

6 3665.7. (a) Notwithstanding any other provision of law, any
7 employer of a licensee shall report to the committee the suspension
8 or termination for cause, or any resignation in lieu of suspension
9 or termination for cause, of any licensee in its employ within 15
10 business days. The report shall not be made until after the
11 conclusion of the review process specified in Section 52.3 of Title
12 2 of the California Code of Regulations and *Skelly v. State*
13 *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This
14 required reporting shall not constitute a waiver of confidentiality
15 of medical records. The information reported or disclosed shall be
16 kept confidential except as provided in subdivision (c) of Section
17 800 and shall not be subject to discovery in civil cases.

18 (b) The information to be reported by the employer shall include
19 the name and license number of the licensee involved, a
20 description of the facts and circumstances of the suspension or
21 termination for cause, any resignation in lieu of suspension or
22 termination for cause, and any other relevant information deemed
23 appropriate by the employer.

24 (c) The committee shall be entitled to inspect and copy the
25 following documents in the record for any suspension or
26 termination for cause, or any resignation in lieu of suspension or
27 termination for cause, resulting in action that is required to be
28 reported pursuant to this section:

29 (1) Any statement for suspension or termination of the licensee.

30 (2) Any document or exhibits relevant to the suspension or
31 termination.

32 (d) If, during the investigation by the committee of the cause
33 for the termination or suspension or resignation of the licensee, it
34 is found that there has been a violation of existing state or federal
35 law, the committee shall report the violation to the appropriate
36 agency.

37 (e) For purposes of this section, “suspension or termination for
38 cause” or “resignation in lieu of suspension or termination for
39 cause” is defined as resignation, suspension, or termination from
40 employment for any of the following reasons:

1 (1) Use of controlled substances or alcohol to the extent that it
2 impairs the licensee's ability to safely practice.

3 (2) Unlawful sale of a controlled substance or other prescription
4 items.

5 (3) Patient or client abuse, neglect, physical harm, or sexual
6 contact with a patient or client.

7 (4) Gross negligence or incompetence.

8 (5) Theft from a patient or client, any other employee, or the
9 employer.

10 (f) As used in this section, the following definitions apply:

11 (1) "Gross negligence" means a substantial departure from the
12 standard of care, which, under similar circumstances, would have
13 ordinarily been exercised by a competent licensee, and which has
14 or could have resulted in harm to the consumer. An exercise of so
15 slight a degree of care as to justify the belief that there was a
16 conscious disregard or indifference for the health, safety, or welfare
17 of the consumer shall be considered a substantial departure from
18 the standard of care.

19 (2) "Incompetence" means the lack of possession of, and the
20 failure to exercise that degree of learning, skill, care, and
21 experience ordinarily possessed by, a responsible licensee.

22 (3) "Willful" means a knowing and intentional violation of a
23 known legal duty.

24 (g) (1) Willful failure of an employer to make a report required
25 by this section is punishable by an administrative fine not to exceed
26 one hundred thousand dollars (\$100,000) per violation.

27 (2) Any failure of an employer, other than willful failure, to
28 make a report required by this section is punishable by an
29 administrative fine not to exceed fifty thousand dollars (\$50,000).

30 (h) The committee shall investigate the circumstances underlying
31 any report received pursuant to this section within 30 days to
32 determine if an interim suspension order or temporary restraining
33 order should be issued. The board shall otherwise provide timely
34 disposition of the reports received pursuant to this section.

35 (i) The committee shall send to the licentiate a copy of the report
36 along with the reasons for the filing of the report and notice
37 advising the licentiate of his or her right to submit additional
38 statements or other information to the board.

1 (j) Pursuant to Section 43.8 of the Civil Code, no person shall
2 incur any civil penalty as a result of making any report required
3 by this article.

4 (k) No report is required under this section where a report of
5 the action taken is already required under Section 805.

6 ~~SEC. 133.~~

7 *SEC. 115.* Section 3665.8 is added to the Business and
8 Professions Code, to read:

9 3665.8. Unless otherwise provided, on or after July 1, ~~2013~~
10 ~~2014~~, the committee shall post on its Internet Web site the
11 following information, including the name and license number, in
12 its possession, custody, or control regarding every licensee ~~for~~
13 ~~which~~ *whom* the committee licenses:

14 (a) With regard to the status of every license, whether or not
15 the licensee or former licensee is in good standing, subject to a
16 temporary restraining order, subject to an interim suspension order,
17 subject to a restriction or cease practice ordered pursuant to Section
18 23 of the Penal Code, or subject to any of the enforcement actions
19 described in Section 803.1.

20 (b) With regard to prior discipline of a licensee, whether or not
21 the licensee or former licensee has been subject to discipline by
22 the board or by the board of another state or jurisdiction, as
23 described in Section 803.1.

24 (c) Any felony conviction of a licensee reported to the board.

25 (d) All current accusations filed by the Attorney General,
26 including those accusations that are on appeal. For purposes of
27 this paragraph, “current accusation” means an accusation that has
28 not been dismissed, withdrawn, or settled, and has not been finally
29 decided upon by an administrative law judge and the board unless
30 an appeal of that decision is pending.

31 (e) Any malpractice judgment or arbitration award imposed
32 against a licensee and reported to the committee.

33 (f) Any hospital disciplinary action imposed against a licensee
34 that resulted in the termination or revocation of a licensee’s hospital
35 staff privileges for a medical disciplinary cause or reason pursuant
36 to ~~Section 3665.8 or~~ 805.

37 (g) Any misdemeanor conviction of a licensee that results in a
38 disciplinary action or an accusation that is not subsequently
39 withdrawn or dismissed.

1 (h) Appropriate disclaimers and explanatory statements to
2 accompany the above information, including an explanation of
3 what types of information are not disclosed. These disclaimers and
4 statements shall be developed by the board and shall be adopted
5 by regulation.

6 (i) The information provided on the Internet shall be in
7 accordance with the California Public Records Act (Chapter 3.5
8 (commencing with Section 6250) of Division 7 of Title 1 of the
9 Government Code) and the Information Practices Act of 1977
10 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
11 4 of Division 3 of the Civil Code) and shall comply with the
12 Department of Consumer Affairs Guidelines for Access to Public
13 Records.

14 (j) Information provided on the Internet may not include
15 personal information, unless otherwise provided pursuant to this
16 chapter, including the home telephone number, date of birth, or
17 social security number. The information may not include the
18 licensee's address, but may include the city and county of the
19 licensee's address of record.

20 ~~SEC. 134.~~

21 *SEC. 116.* Section 3665.9 is added to the Business and
22 Professions Code, to read:

23 3665.9. (a) Unless otherwise provided, if a licensee possesses
24 a license or is otherwise authorized to practice in any state other
25 than California or by any agency of the federal government and
26 that license or authority is suspended or revoked outright, the
27 California license of the licensee shall be suspended automatically
28 for the duration of the suspension or revocation, unless terminated
29 or rescinded as provided in subdivision (c). The committee shall
30 notify the licensee of the license suspension and of his or her right
31 to have the issue of penalty heard as provided in this section.

32 (b) Upon its own motion or for good cause shown, a committee
33 may decline to impose or may set aside the suspension when it
34 appears to be in the interest of justice to do so, with due regard to
35 maintaining the integrity of, and confidence in, the specific healing
36 art.

37 (c) The issue of penalty shall be heard by an administrative law
38 judge sitting alone or with a panel of the committee, in the
39 discretion of the board. A licensee may request a hearing on the
40 penalty and that hearing shall be held within 90 days from the date

1 of the request. If the order suspending or revoking the license or
2 authority to practice is overturned on appeal, any discipline ordered
3 pursuant to this section shall automatically cease. Upon a showing
4 to the administrative law judge or panel by the licensee that the
5 out-of-state action is not a basis for discipline in California, the
6 suspension shall be rescinded. If an accusation for permanent
7 discipline is not filed within 90 days of the suspension imposed
8 pursuant to this section, the suspension shall automatically
9 terminate.

10 (d) The record of the proceedings that resulted in the suspension
11 or revocation of the licensee's out-of-state license or authority to
12 practice, including a transcript of the testimony therein, may be
13 received in evidence.

14 (e) This section shall not apply to a licensee who maintains his
15 or her primary practice in California, as evidenced by having
16 maintained a practice in this state for not less than one year
17 immediately preceding the date of suspension or revocation.
18 Nothing in this section shall preclude a licensee's license from
19 being suspended pursuant to any other provision of law.

20 (f) This section shall not apply to a licensee whose license has
21 been surrendered, whose only discipline is a medical staff
22 disciplinary action at a federal hospital and not for medical
23 disciplinary cause or reason as that term is defined in Section 805,
24 or whose revocation or suspension has been stayed, even if the
25 licensee remains subject to terms of probation or other discipline.

26 (g) This section shall not apply to a suspension or revocation
27 imposed by a state that is based solely on the prior discipline of
28 the licensee by another state.

29 (h) The other provisions of this article setting forth a procedure
30 for the suspension or revocation of a licensee's license or certificate
31 shall not apply to summary suspensions issued pursuant to this
32 section. If a summary suspension has been issued pursuant to this
33 section, the licensee may request that the hearing on the penalty
34 conducted pursuant to subdivision (c) be held at the same time as
35 a hearing on the accusation.

36 ~~(i) A board that complies with Section 2310 shall not be subject~~
37 ~~to the requirements of this section.~~

38 ~~SEC. 135.~~

39 *SEC. 117.* Section 3769.4 is added to the Business and
40 Professions Code, to read:

1 3769.4. (a) The board may delegate to its executive officer
2 the authority to adopt a proposed default decision where an
3 administrative action to revoke a license has been filed and the
4 licensee has failed to file a notice of defense or to appear at the
5 hearing and a proposed default decision revoking the license has
6 been issued.

7 (b) The board may delegate to its executive officer the authority
8 to adopt a proposed settlement agreement where an administrative
9 action to revoke a license has been filed by the board and the
10 licensee has agreed to the revocation or surrender of his or her
11 license.

12 (c) The executive officer shall, at scheduled board meetings,
13 report to the board the number of proposed default decisions or
14 proposed settlement agreements adopted pursuant to this section.

15 ~~SEC. 136.~~

16 *SEC. 118.* Section 3769.5 is added to the Business and
17 Professions Code, to read:

18 3769.5. (a) Notwithstanding Section 11415.60 of the
19 Government Code, the board may enter into a settlement with a
20 licensee or applicant in lieu of the issuance of an accusation or
21 statement of issues against that licensee or applicant, as applicable.

22 (b) The settlement shall include language identifying the factual
23 basis for the action being taken and a list of the statutes or
24 regulations violated.

25 (c) A person who enters a settlement pursuant to this section is
26 not precluded from filing a petition, in the timeframe permitted
27 by law, to modify the terms of the settlement or petition for early
28 termination of probation, if probation is part of the settlement.

29 (d) Any settlement against a licensee executed pursuant to this
30 section shall be considered discipline and a public record and shall
31 be posted on the applicable board's Internet Web site. Any
32 settlement against an applicant executed pursuant to this section
33 shall be considered a public record and shall be posted on the
34 applicable board's Internet Web site.

35 (e) The executive officer shall, at scheduled board meetings,
36 report to the board the number of proposed settlement agreements
37 adopted pursuant to this section.

38 ~~SEC. 137.~~

39 *SEC. 119.* Section 3769.6 is added to the Business and
40 Professions Code, to read:

1 3769.6. (a) The license of a licensee shall be suspended
2 automatically during any time that the licensee is incarcerated after
3 conviction of a felony, regardless of whether the conviction has
4 been appealed. The board shall, immediately upon receipt of the
5 certified copy of the record of conviction, determine whether the
6 license of the licensee has been automatically suspended by virtue
7 of his or her incarceration, and if so, the duration of that
8 suspension. The board shall notify the licensee in writing of the
9 license suspension and of his or her right to elect to have the issue
10 of penalty heard as provided in subdivision (d).

11 (b) Upon receipt of the certified copy of the record of conviction,
12 if after a hearing before an administrative law judge from the Office
13 of Administrative Hearings it is determined that the felony for
14 which the licensee was convicted was substantially related to the
15 qualifications, functions, or duties of a licensee, the board shall
16 suspend the license until the time for appeal has elapsed, if no
17 appeal has been taken, or until the judgment of conviction has been
18 affirmed on appeal or has otherwise become final, and until further
19 order of the board.

20 (c) Notwithstanding subdivision (b), a conviction of a charge
21 of violating any federal statute or regulation or any statute or
22 regulation of this state, regulating dangerous drugs or controlled
23 substances, or a conviction of Section 187, 261, 262, or 288 of the
24 Penal Code, shall be conclusively presumed to be substantially
25 related to the qualifications, functions, or duties of a licensee and
26 no hearing shall be held on this issue. However, upon its own
27 motion or for good cause shown, the board may decline to impose
28 or may set aside the suspension when it appears to be in the interest
29 of justice to do so, with due regard to maintaining the integrity of,
30 and confidence in, the practice regulated by the board.

31 (d) (1) Discipline may be ordered against a licensee in
32 accordance with the statutes and regulations of the board when the
33 time for appeal has elapsed, the judgment of conviction has been
34 affirmed on appeal, or an order granting probation is made
35 suspending the imposition of sentence, irrespective of a subsequent
36 order under Section 1203.4 of the Penal Code allowing the person
37 to withdraw his or her plea of guilty and to enter a plea of not
38 guilty, setting aside the verdict of guilty, or dismissing the
39 accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge from the Office of Administrative Hearings. The hearing shall not be ~~had~~ *held* until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence; except that a licensee may, at his or her option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee so elects, the issue of penalty shall be heard in the manner described in subdivision (b) at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of a licensee. If the conviction of a licensee who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Nothing in this subdivision shall prohibit the board from pursuing disciplinary action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in a conviction, including a transcript of the testimony in those proceedings, may be received in evidence.

(f) Any other provision of law setting forth a procedure for the suspension or revocation of a license issued by the board shall not apply to proceedings conducted pursuant to this section.

~~SEC. 138.~~

SEC. 120. Section 3769.7 is added to the Business and Professions Code, to read:

3769.7. (a) Except as otherwise provided, any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee engaged in any act of sexual contact with a patient, as defined in subdivision (c) of Section 729, or any finding that the licensee has committed a sex offense, shall contain an order revoking the license. The proposed decision shall not contain any order staying the revocation of the licensee.

(b) As used in this section, the term ~~sex offense~~ “*sex offense*” shall mean any of the following:

(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

(2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1, or 647(a) or (d) of the Penal Code subdivisions (a) to (d), inclusive, of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d) of Section 647 of the Penal Code,~~ or a finding that a person committed such an act.

(3) Any attempt to commit any of the offenses specified in this section.

(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.

~~SEC. 139. Section 3769.8 is added to the Business and Professions Code, to read:~~

~~3769.8. (a) Except as otherwise provided, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, under military law, or under federal law, the board shall be subject to the following requirements:~~

~~(1) The board shall deny an application by the individual for licensure in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~(2) If the individual is licensed under this chapter, the board shall promptly revoke the license of the individual in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The board shall not stay the revocation and place the license on probation.~~

~~(3) The board shall not reinstate or reissue the individual's license. The board shall not issue a stay of license denial nor place the license on probation.~~

~~(b) This section shall not apply to any of the following:~~

~~(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender.~~

~~(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.~~

1 However, nothing in this paragraph shall prohibit the board from
2 exercising its discretion to discipline a licensee under any other
3 provision of state law based upon the licensee's conviction under
4 Section 314 of the Penal Code.

5 ~~(3) Any administrative adjudication proceeding under Chapter~~
6 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
7 ~~Title 2 of the Government Code that is fully adjudicated prior to~~
8 ~~January 1, 2008. A petition for reinstatement of a revoked or~~
9 ~~surrendered license shall be considered a new proceeding for~~
10 ~~purposes of this paragraph, and the prohibition against reinstating~~
11 ~~a license to an individual who is required to register as a sex~~
12 ~~offender shall be applicable.~~

13 ~~SEC. 140.~~

14 *SEC. 121.* Section 3769.9 is added to the Business and
15 Professions Code, to read:

16 3769.9. Unless otherwise provided, on or after July 1, 2013
17 2014, the board shall post on its Internet Web site the following
18 information in its possession, custody, or control regarding every
19 licensee ~~for which~~ *whom* the board licenses:

20 (a) With regard to the status of every license, whether or not
21 the licensee or former licensee is in good standing, subject to a
22 temporary restraining order, subject to an interim suspension order,
23 subject to a restriction or cease practice ordered pursuant to Section
24 23 of the Penal Code, or subject to any of the enforcement actions
25 described in Section 803.1.

26 (b) With regard to prior discipline of a licensee, whether or not
27 the licensee or former licensee has been subject to discipline by
28 the board or by the board of another state or jurisdiction, as
29 described in Section 803.1.

30 (c) Any felony conviction of a licensee reported to the board.

31 (d) All current accusations filed by the Attorney General,
32 including those accusations that are on appeal. For purposes of
33 this paragraph, "current accusation" means an accusation that has
34 not been dismissed, withdrawn, or settled, and has not been finally
35 decided upon by an administrative law judge and the board unless
36 an appeal of that decision is pending.

37 (e) Any malpractice judgment or arbitration award imposed
38 against a licensee and reported to the healing arts board.

39 (f) Any hospital disciplinary action imposed against a licensee
40 that resulted in the termination or revocation of a licensee's hospital

1 staff privileges for a medical disciplinary cause or reason pursuant
2 to Section 805.

3 (g) Any misdemeanor conviction of a licensee that results in a
4 disciplinary action or an accusation that is not subsequently
5 withdrawn or dismissed.

6 (h) Appropriate disclaimers and explanatory statements to
7 accompany the above information, including an explanation of
8 what types of information are not disclosed. These disclaimers and
9 statements shall be developed by the board and shall be adopted
10 by regulation.

11 (i) The information provided on the Internet shall be in
12 accordance with the California Public Records Act (Chapter 3.5
13 (commencing with Section 6250) of Division 7 of Title 1 of the
14 Government Code) and the Information Practices Act of 1977
15 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
16 4 of Division 3 of the Civil Code) and shall comply with the
17 Department of Consumer Affairs Guidelines for Access to Public
18 Records.

19 (j) Information provided on the Internet may not include
20 personal information, unless otherwise provided pursuant to this
21 chapter, including the home telephone number, date of birth, or
22 social security number. The information may not include the
23 licensee's address, but may include the city and county of the
24 licensee's address of record.

25 ~~SEC. 141. Section 3796.10 is added to the Business and~~
26 ~~Professions Code, to read:~~

27 ~~3796.10. (a) Unless otherwise provided, if a licensee possesses~~
28 ~~a license or is otherwise authorized to practice in any state other~~
29 ~~than California or by any agency of the federal government and~~
30 ~~that license or authority is suspended or revoked outright, the~~
31 ~~California license of the licensee shall be suspended automatically~~
32 ~~for the duration of the suspension or revocation, unless terminated~~
33 ~~or rescinded as provided in subdivision (c). The healing arts board~~
34 ~~shall notify the licensee of the license suspension and of his or her~~
35 ~~right to have the issue of penalty heard as provided in this section.~~

36 ~~(b) Upon its own motion or for good cause shown, a healing~~
37 ~~arts board may decline to impose or may set aside the suspension~~
38 ~~when it appears to be in the interest of justice to do so, with due~~
39 ~~regard to maintaining the integrity of, and confidence in, the~~
40 ~~specific healing art.~~

1 ~~(e) The issue of penalty shall be heard by an administrative law~~
2 ~~judge sitting alone or with a panel of the board, in the discretion~~
3 ~~of the board. A licensee may request a hearing on the penalty and~~
4 ~~that hearing shall be held within 90 days from the date of the~~
5 ~~request. If the order suspending or revoking the license or authority~~
6 ~~to practice is overturned on appeal, any discipline ordered pursuant~~
7 ~~to this section shall automatically cease. Upon a showing to the~~
8 ~~administrative law judge or panel by the licensee that the~~
9 ~~out-of-state action is not a basis for discipline in California, the~~
10 ~~suspension shall be rescinded. If an accusation for permanent~~
11 ~~discipline is not filed within 90 days of the suspension imposed~~
12 ~~pursuant to this section, the suspension shall automatically~~
13 ~~terminate.~~

14 ~~(d) The record of the proceedings that resulted in the suspension~~
15 ~~or revocation of the licensee's out-of-state license or authority to~~
16 ~~practice, including a transcript of the testimony therein, may be~~
17 ~~received in evidence.~~

18 ~~(e) This section shall not apply to a licensee who maintains his~~
19 ~~or her primary practice in California, as evidenced by having~~
20 ~~maintained a practice in this state for not less than one year~~
21 ~~immediately preceding the date of suspension or revocation.~~
22 ~~Nothing in this section shall preclude a licensee's license from~~
23 ~~being suspended pursuant to any other provision of law.~~

24 ~~(f) This section shall not apply to a licensee whose license has~~
25 ~~been surrendered, whose only discipline is a medical staff~~
26 ~~disciplinary action at a federal hospital and not for medical~~
27 ~~disciplinary cause or reason as that term is defined in Section 805,~~
28 ~~or whose revocation or suspension has been stayed, even if the~~
29 ~~licensee remains subject to terms of probation or other discipline.~~

30 ~~(g) This section shall not apply to a suspension or revocation~~
31 ~~imposed by a state that is based solely on the prior discipline of~~
32 ~~the licensee by another state.~~

33 ~~(h) The other provisions of this article setting forth a procedure~~
34 ~~for the suspension or revocation of a licensee's license or certificate~~
35 ~~shall not apply to summary suspensions issued pursuant to this~~
36 ~~section. If a summary suspension has been issued pursuant to this~~
37 ~~section, the licensee may request that the hearing on the penalty~~
38 ~~conducted pursuant to subdivision (e) be held at the same time as~~
39 ~~a hearing on the accusation.~~

1 ~~(i) A board that complies with Section 2310 shall not be subject~~
2 ~~to the requirements of this section.~~

3 *SEC. 122. Section 3769.10 is added to the Business and*
4 *Professions Code, to read:*

5 3769.10. (a) *Unless otherwise provided, if a licensee possesses*
6 *a license or is otherwise authorized to practice in any state other*
7 *than California or by any agency of the federal government and*
8 *that license or authority is suspended or revoked outright, the*
9 *California license of the licensee shall be suspended automatically*
10 *for the duration of the suspension or revocation, unless terminated*
11 *or rescinded as provided in subdivision (c). The board shall notify*
12 *the licensee of the license suspension and of his or her right to*
13 *have the issue of penalty heard as provided in this section.*

14 (b) *Upon its own motion or for good cause shown, the board*
15 *may decline to impose or may set aside the suspension when it*
16 *appears to be in the interest of justice to do so, with due regard*
17 *to maintaining the integrity of, and confidence in, the specific*
18 *healing art.*

19 (c) *The issue of penalty shall be heard by an administrative law*
20 *judge sitting alone or with a panel of the board, in the discretion*
21 *of the board. A licensee may request a hearing on the penalty and*
22 *that hearing shall be held within 90 days from the date of the*
23 *request. If the order suspending or revoking the license or authority*
24 *to practice is overturned on appeal, any discipline ordered*
25 *pursuant to this section shall automatically cease. Upon a showing*
26 *to the administrative law judge or panel by the licensee that the*
27 *out-of-state action is not a basis for discipline in California, the*
28 *suspension shall be rescinded. If an accusation for permanent*
29 *discipline is not filed within 90 days of the suspension imposed*
30 *pursuant to this section, the suspension shall automatically*
31 *terminate.*

32 (d) *The record of the proceedings that resulted in the suspension*
33 *or revocation of the licensee's out-of-state license or authority to*
34 *practice, including a transcript of the testimony therein, may be*
35 *received in evidence.*

36 (e) *This section shall not apply to a licensee who maintains his*
37 *or her primary practice in California, as evidenced by having*
38 *maintained a practice in this state for not less than one year*
39 *immediately preceding the date of suspension or revocation.*

1 *Nothing in this section shall preclude a licensee's license from*
2 *being suspended pursuant to any other provision of law.*

3 *(f) This section shall not apply to a licensee whose license has*
4 *been surrendered, whose only discipline is a medical staff*
5 *disciplinary action at a federal hospital and not for medical*
6 *disciplinary cause or reason as that term is defined in Section 805,*
7 *or whose revocation or suspension has been stayed, even if the*
8 *licensee remains subject to terms of probation or other discipline.*

9 *(g) This section shall not apply to a suspension or revocation*
10 *imposed by a state that is based solely on the prior discipline of*
11 *the licensee by another state.*

12 *(h) The other provisions of this article setting forth a procedure*
13 *for the suspension or revocation of a licensee's license or*
14 *certificate shall not apply to summary suspensions issued pursuant*
15 *to this section. If a summary suspension has been issued pursuant*
16 *to this section, the licensee may request that the hearing on the*
17 *penalty conducted pursuant to subdivision (c) be held at the same*
18 *time as a hearing on the accusation.*

19 *SEC. 123. Section 3769.11 is added to the Business and*
20 *Professions Code, to read:*

21 *3769.11. Notwithstanding any other provision of law, it is a*
22 *public offense, punishable by a fine not to exceed one hundred*
23 *thousand dollars (\$100,000), by imprisonment in a county jail not*
24 *to exceed one year, or by both that fine and imprisonment, for:*

25 *(a) Any person who does not hold a current and valid license*
26 *to practice respiratory therapy to engage in that practice.*

27 *(b) Any person to fraudulently buy, sell, or obtain a license to*
28 *practice respiratory therapy or to violate any provision of this*
29 *chapter.*

30 ~~SEC. 142.~~

31 *SEC. 124. Section 4316 is added to the Business and*
32 *Professions Code, to read:*

33 *4316. (a) The board may delegate to its executive officer the*
34 *authority to adopt a proposed default decision where an*
35 *administrative action to revoke a license has been filed and the*
36 *licensee has failed to file a notice of defense or to appear at the*
37 *hearing and a proposed default decision revoking the license has*
38 *been issued.*

39 *(b) The board may delegate to its executive officer the authority*
40 *to adopt a proposed settlement agreement where an administrative*

1 action to revoke a license has been filed by the board and the
2 licensee has agreed to the revocation or surrender of his or her
3 license.

4 (c) The executive officer shall, at scheduled board meetings,
5 report to the board the number of proposed default decisions or
6 proposed settlement agreements adopted pursuant to this section.

7 ~~SEC. 143.~~

8 *SEC. 125.* Section 4316.1 is added to the Business and
9 Professions Code, to read:

10 4316.1. (a) Notwithstanding Section 11415.60 of the
11 Government Code, the board may enter into a settlement with a
12 licensee or applicant in lieu of the issuance of an accusation or
13 statement of issues against that licensee or applicant, as applicable.

14 (b) The settlement shall include language identifying the factual
15 basis for the action being taken and a list of the statutes or
16 regulations violated.

17 (c) A person who enters *into* a settlement pursuant to this section
18 is not precluded from filing a petition, in the timeframe permitted
19 by law, to modify the terms of the settlement or petition for early
20 termination of probation, if probation is part of the settlement.

21 (d) Any settlement against a licensee executed pursuant to this
22 section shall be considered discipline and a public record and shall
23 be posted on the applicable board's Internet Web site. Any
24 settlement against an applicant executed pursuant to this section
25 shall be considered a public record and shall be posted on the
26 applicable board's Internet Web site.

27 (e) The executive officer shall, at scheduled board meetings,
28 report to the board the number of proposed settlement agreements
29 adopted pursuant to this section.

30 ~~SEC. 144.~~

31 *SEC. 126.* Section 4316.2 is added to the Business and
32 Professions Code, to read:

33 4316.2. (a) The license of a licensee shall be suspended
34 automatically during any time that the licensee is incarcerated after
35 conviction of a felony, regardless of whether the conviction has
36 been appealed. The board shall, immediately upon receipt of the
37 certified copy of the record of conviction, determine whether the
38 license of the licensee has been automatically suspended by virtue
39 of his or her incarceration, and if so, the duration of that
40 suspension. The board shall notify the licensee in writing of the

1 license suspension and of his or her right to elect to have the issue
2 of penalty heard as provided in subdivision (d).

3 (b) Upon receipt of the certified copy of the record of conviction,
4 if after a hearing before an administrative law judge from the Office
5 of Administrative Hearings it is determined that the felony for
6 which the licensee was convicted was substantially related to the
7 qualifications, functions, or duties of a licensee, the board shall
8 suspend the license until the time for appeal has elapsed, if no
9 appeal has been taken, or until the judgment of conviction has been
10 affirmed on appeal or has otherwise become final, and until further
11 order of the board.

12 (c) Notwithstanding subdivision (b), a conviction of a charge
13 of violating any federal statute or regulation or any statute or
14 regulation of this state, regulating dangerous drugs or controlled
15 substances, or a conviction of Section 187, 261, 262, or 288 of the
16 Penal Code, shall be conclusively presumed to be substantially
17 related to the qualifications, functions, or duties of a licensee and
18 no hearing shall be held on this issue. However, upon its own
19 motion or for good cause shown, the board may decline to impose
20 or may set aside the suspension when it appears to be in the interest
21 of justice to do so, with due regard to maintaining the integrity of,
22 and confidence in, the practice regulated by the board.

23 (d) (1) Discipline may be ordered against a licensee in
24 accordance with the statutes and regulations of the board when the
25 time for appeal has elapsed, the judgment of conviction has been
26 affirmed on appeal, or an order granting probation is made
27 suspending the imposition of sentence, irrespective of a subsequent
28 order under Section 1203.4 of the Penal Code allowing the person
29 to withdraw his or her plea of guilty and to enter a plea of not
30 guilty, setting aside the verdict of guilty, or dismissing the
31 accusation, complaint, information, or indictment.

32 (2) The issue of penalty shall be heard by an administrative law
33 judge from the Office of Administrative Hearings. The hearing
34 shall not be ~~had~~ held until the judgment of conviction has become
35 final or, irrespective of a subsequent order under Section 1203.4
36 of the Penal Code, an order granting probation has been made
37 suspending the imposition of sentence; except that a licensee may,
38 at his or her option, elect to have the issue of penalty decided before
39 those time periods have elapsed. Where the licensee so elects, the
40 issue of penalty shall be heard in the manner described in

subdivision (b) at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of a licensee. If the conviction of a licensee who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Nothing in this subdivision shall prohibit the board from pursuing disciplinary action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in a conviction, including a transcript of the testimony in those proceedings, may be received in evidence.

(f) Any other provision of law setting forth a procedure for the suspension or revocation of a license issued by the board shall not apply to proceedings conducted pursuant to this section.

~~SEC. 145.~~

SEC. 127. Section 4316.3 is added to the Business and Professions Code, to read:

4316.3. (a) Except as otherwise provided, any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee engaged in any act of sexual contact with a patient, as defined in subdivision (c) of Section 729, or any finding that the licensee has committed a sex offense, shall contain an order revoking the license. The proposed decision shall not contain any order staying the revocation of the licensee.

(b) As used in this section, the term ~~sex offense~~ “*sex offense*” shall mean any of the following:

(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

(2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1, or 647(a) or (d) of the Penal Code~~ *subdivisions (a) to (d), inclusive, of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d) of Section 647 of the Penal Code*, or a finding that a person committed such an act.

(3) Any attempt to commit any of the offenses specified in this section.

(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or

1 attempted in this state, would have been punishable as one or more
2 of the offenses specified in this section.

3 ~~SEC. 146. Section 4316.4 is added to the Business and~~
4 ~~Professions Code, to read:~~

5 ~~4316.4. (a) Except as otherwise provided, with regard to an~~
6 ~~individual who is required to register as a sex offender pursuant~~
7 ~~to Section 290 of the Penal Code, or the equivalent in another state~~
8 ~~or territory, under military law, or under federal law, the board~~
9 ~~shall be subject to the following requirements:~~

10 ~~(1) The board shall deny an application by the individual for~~
11 ~~licensure in accordance with the procedures set forth in Chapter~~
12 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
13 ~~Title 2 of the Government Code.~~

14 ~~(2) If the individual is licensed under this chapter, the board~~
15 ~~shall promptly revoke the license of the individual in accordance~~
16 ~~with the procedures set forth in Chapter 5 (commencing with~~
17 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
18 ~~Code. The board shall not stay the revocation and place the license~~
19 ~~on probation.~~

20 ~~(3) The board shall not reinstate or reissue the individual's~~
21 ~~license. The board shall not issue a stay of license denial nor place~~
22 ~~the license on probation.~~

23 ~~(b) This section shall not apply to any of the following:~~

24 ~~(1) An individual who has been relieved under Section 290.5~~
25 ~~of the Penal Code of his or her duty to register as a sex offender,~~
26 ~~or whose duty to register has otherwise been formally terminated~~
27 ~~under California law or the law of the jurisdiction that requires his~~
28 ~~or her registration as a sex offender.~~

29 ~~(2) An individual who is required to register as a sex offender~~
30 ~~pursuant to Section 290 of the Penal Code solely because of a~~
31 ~~misdemeanor conviction under Section 314 of the Penal Code.~~
32 ~~However, nothing in this paragraph shall prohibit the board from~~
33 ~~exercising its discretion to discipline a licensee under any other~~
34 ~~provision of state law based upon the licensee's conviction under~~
35 ~~Section 314 of the Penal Code.~~

36 ~~(3) Any administrative adjudication proceeding under Chapter~~
37 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
38 ~~Title 2 of the Government Code that is fully adjudicated prior to~~
39 ~~January 1, 2008. A petition for reinstatement of a revoked or~~
40 ~~surrendered license shall be considered a new proceeding for~~

~~purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.~~

~~SEC. 147.~~

SEC. 128. Section 4316.5 is added to the Business and Professions Code, to read:

4316.5. Unless otherwise provided, on or after July 1, ~~2013~~ 2014, the board shall post on its Internet Web site the following information in its possession, custody, or control regarding every licensee ~~for which~~ *whom* the board licenses:

(a) With regard to the status of every license, whether or not the licensee or former licensee is in good standing, subject to a temporary restraining order, subject to an interim suspension order, subject to a restriction or cease practice ordered pursuant to Section 23 of the Penal Code, or subject to any of the enforcement actions described in Section 803.1.

(b) With regard to prior discipline of a licensee, whether or not the licensee or former licensee has been subject to discipline by the board or by the board of another state or jurisdiction, as described in Section 803.1.

(c) Any felony conviction of a licensee reported to the board.

(d) All current accusations filed by the Attorney General, including those accusations that are on appeal. For purposes of this paragraph, “current accusation” means an accusation that has not been dismissed, withdrawn, or settled, and has not been finally decided upon by an administrative law judge and the board unless an appeal of that decision is pending.

(e) Any malpractice judgment or arbitration award imposed against a licensee and reported to the healing arts board.

(f) Any hospital disciplinary action imposed against a licensee that resulted in the termination or revocation of a licensee’s hospital staff privileges for a medical disciplinary cause or reason pursuant to Section 805.

(g) Any misdemeanor conviction of a licensee that results in a disciplinary action or an accusation that is not subsequently withdrawn or dismissed.

(h) Appropriate disclaimers and explanatory statements to accompany the above information, including an explanation of what types of information are not disclosed. These disclaimers and

1 statements shall be developed by the board and shall be adopted
2 by regulation.

3 (i) The information provided on the Internet shall be in
4 accordance with the California Public Records Act (Chapter 3.5
5 (commencing with Section 6250) of Division 7 of Title 1 of the
6 Government Code) and the Information Practices Act of 1977
7 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
8 4 of Division 3 of the Civil Code) and shall comply with the
9 Department of Consumer Affairs Guidelines for Access to Public
10 Records.

11 (j) Information provided on the Internet may not include
12 personal information, unless otherwise provided pursuant to this
13 chapter, including the home telephone number, date of birth, or
14 social security number. The information may not include the
15 licensee's address, but may include the city and county of the
16 licensee's address of record.

17 ~~SEC. 148.~~

18 *SEC. 129.* Section 4316.6 is added to the Business and
19 Professions Code, to read:

20 4316.6. (a) Unless otherwise provided, if a licensee possesses
21 a license or is otherwise authorized to practice in any state other
22 than California or by any agency of the federal government and
23 that license or authority is suspended or revoked outright, the
24 California license of the licensee shall be suspended automatically
25 for the duration of the suspension or revocation, unless terminated
26 or rescinded as provided in subdivision (c). The healing arts board
27 shall notify the licensee of the license suspension and of his or her
28 right to have the issue of penalty heard as provided in this section.

29 (b) Upon its own motion or for good cause shown, a healing
30 arts board may decline to impose or may set aside the suspension
31 when it appears to be in the interest of justice to do so, with due
32 regard to maintaining the integrity of, and confidence in, the
33 specific healing art.

34 (c) The issue of penalty shall be heard by an administrative law
35 judge sitting alone or with a panel of the board, in the discretion
36 of the board. A licensee may request a hearing on the penalty and
37 that hearing shall be held within 90 days from the date of the
38 request. If the order suspending or revoking the license or authority
39 to practice is overturned on appeal, any discipline ordered pursuant
40 to this section shall automatically cease. Upon a showing to the

1 administrative law judge or panel by the licensee that the
2 out-of-state action is not a basis for discipline in California, the
3 suspension shall be rescinded. If an accusation for permanent
4 discipline is not filed within 90 days of the suspension imposed
5 pursuant to this section, the suspension shall automatically
6 terminate.

7 (d) The record of the proceedings that resulted in the suspension
8 or revocation of the licensee's out-of-state license or authority to
9 practice, including a transcript of the testimony therein, may be
10 received in evidence.

11 (e) This section shall not apply to a licensee who maintains his
12 or her primary practice in California, as evidenced by having
13 maintained a practice in this state for not less than one year
14 immediately preceding the date of suspension or revocation.
15 Nothing in this section shall preclude a licensee's license from
16 being suspended pursuant to any other provision of law.

17 (f) This section shall not apply to a licensee whose license has
18 been surrendered, whose only discipline is a medical staff
19 disciplinary action at a federal hospital and not for medical
20 disciplinary cause or reason as that term is defined in Section 805,
21 or whose revocation or suspension has been stayed, even if the
22 licensee remains subject to terms of probation or other discipline.

23 (g) This section shall not apply to a suspension or revocation
24 imposed by a state that is based solely on the prior discipline of
25 the licensee by another state.

26 (h) The other provisions of this article setting forth a procedure
27 for the suspension or revocation of a licensee's license or certificate
28 shall not apply to summary suspensions issued pursuant to this
29 section. If a summary suspension has been issued pursuant to this
30 section, the licensee may request that the hearing on the penalty
31 conducted pursuant to subdivision (c) be held at the same time as
32 a hearing on the accusation.

33 ~~(i) A board that complies with Section 2310 shall not be subject~~
34 ~~to the requirements of this section.~~

35 *SEC. 130. Section 4344 is added to the Business and*
36 *Professions Code, to read:*

37 *4344. Notwithstanding any other provision of law, it is a public*
38 *offense, punishable by a fine not to exceed one hundred thousand*
39 *dollars (\$100,000), by imprisonment in a county jail not to exceed*
40 *one year, or by both that fine and imprisonment, for:*

1 (a) Any person who does not hold a current and valid license
2 to practice pharmacy to engage in that practice.

3 (b) Any person to fraudulently buy, sell, or obtain a license to
4 practice pharmacy or to violate any provision of this chapter.

5 ~~SEC. 149.~~

6 SEC. 131. Section 4375 is added to the Business and
7 Professions Code, to read:

8 4375. (a) It is the intent of the Legislature, through a request
9 in ~~2012~~ 2013 from the Joint Legislative Audit Committee, that the
10 Bureau of State Audits conduct a thorough performance audit of
11 the ~~Pharmacists Recovery Program~~ *pharmacists recovery program*
12 to evaluate the effectiveness and efficiency of the program, and
13 make recommendations regarding the continuation of the program
14 and any changes or reforms required to ensure that pharmacists
15 and intern pharmacists participating in the program are
16 appropriately monitored, and the public is protected from
17 pharmacists and intern pharmacists who are impaired due to alcohol
18 or drug abuse or mental or physical illness. The audit shall be
19 completed by January 1, ~~2013~~ 2014. The board and its staff shall
20 cooperate with the audit, and the board shall provide data,
21 information, and case files as requested by the auditor to perform
22 all of ~~its~~ *his or her* duties. The provision of confidential data,
23 information, and case files by the board to the auditor shall not
24 constitute a waiver of any exemption from disclosure or discovery
25 or of any confidentiality protection or privilege otherwise provided
26 by law that is applicable to the data, information, or case files.

27 (b) It is the intent of the Legislature that the audit ~~shall~~ be paid
28 for with funds from the Pharmacy Board Contingent Fund.

29 ~~SEC. 150.~~

30 SEC. 132. Section 4526 is added to the Business and
31 Professions Code, to read:

32 4526. (a) The board may delegate to its executive officer the
33 authority to adopt a proposed default decision where an
34 administrative action to revoke a license has been filed and the
35 licensee has failed to file a notice of defense or to appear at the
36 hearing and a proposed default decision revoking the license has
37 been issued.

38 (b) The board may delegate to its executive officer the authority
39 to adopt a proposed settlement agreement where an administrative
40 action to revoke a license has been filed by the board and the

1 licensee has agreed to the revocation or surrender of his or her
2 license.

3 (c) The executive officer shall, at scheduled board meetings,
4 report to the board the number of proposed default decisions or
5 proposed settlement agreements adopted pursuant to this section.

6 ~~SEC. 151.~~

7 *SEC. 133.* Section 4526.1 is added to the Business and
8 Professions Code, to read:

9 4526.1. (a) Notwithstanding Section 11415.60 of the
10 Government Code, the board may enter into a settlement with a
11 licensee or applicant in lieu of the issuance of an accusation or
12 statement of issues against that licensee or applicant, as applicable.

13 (b) The settlement shall include language identifying the factual
14 basis for the action being taken and a list of the statutes or
15 regulations violated.

16 (c) A person who enters *into* a settlement pursuant to this section
17 is not precluded from filing a petition, in the timeframe permitted
18 by law, to modify the terms of the settlement or petition for early
19 termination of probation, if probation is part of the settlement.

20 (d) Any settlement against a licensee executed pursuant to this
21 section shall be considered discipline and a public record and shall
22 be posted on the applicable board's Internet Web site. Any
23 settlement against an applicant executed pursuant to this section
24 shall be considered a public record and shall be posted on the
25 applicable board's Internet Web site.

26 (e) The executive officer shall, at scheduled board meetings,
27 report to the board the number of proposed settlement agreements
28 adopted pursuant to this section.

29 ~~SEC. 152.~~

30 *SEC. 134.* Section 4526.2 is added to the Business and
31 Professions Code, to read:

32 4526.2. (a) The license of a licensee shall be suspended
33 automatically during any time that the licensee is incarcerated after
34 conviction of a felony, regardless of whether the conviction has
35 been appealed. The board shall, immediately upon receipt of the
36 certified copy of the record of conviction, determine whether the
37 license of the licensee has been automatically suspended by virtue
38 of his or her incarceration, and if so, the duration of that
39 suspension. The board shall notify the licensee in writing of the

1 license suspension and of his or her right to elect to have the issue
2 of penalty heard as provided in subdivision (d).

3 (b) Upon receipt of the certified copy of the record of conviction,
4 if after a hearing before an administrative law judge from the Office
5 of Administrative Hearings it is determined that the felony for
6 which the licensee was convicted was substantially related to the
7 qualifications, functions, or duties of a licensee, the board shall
8 suspend the license until the time for appeal has elapsed, if no
9 appeal has been taken, or until the judgment of conviction has been
10 affirmed on appeal or has otherwise become final, and until further
11 order of the board.

12 (c) Notwithstanding subdivision (b), a conviction of a charge
13 of violating any federal statute or regulation or any statute or
14 regulation of this state, regulating dangerous drugs or controlled
15 substances, or a conviction of Section 187, 261, 262, or 288 of the
16 Penal Code, shall be conclusively presumed to be substantially
17 related to the qualifications, functions, or duties of a licensee and
18 no hearing shall be held on this issue. However, upon its own
19 motion or for good cause shown, the board may decline to impose
20 or may set aside the suspension when it appears to be in the interest
21 of justice to do so, with due regard to maintaining the integrity of,
22 and confidence in, the practice regulated by the board.

23 (d) (1) Discipline may be ordered against a licensee in
24 accordance with the statutes and regulations of the board when the
25 time for appeal has elapsed, the judgment of conviction has been
26 affirmed on appeal, or an order granting probation is made
27 suspending the imposition of sentence, irrespective of a subsequent
28 order under Section 1203.4 of the Penal Code allowing the person
29 to withdraw his or her plea of guilty and to enter a plea of not
30 guilty, setting aside the verdict of guilty, or dismissing the
31 accusation, complaint, information, or indictment.

32 (2) The issue of penalty shall be heard by an administrative law
33 judge from the Office of Administrative Hearings. The hearing
34 shall not be ~~had~~ held until the judgment of conviction has become
35 final or, irrespective of a subsequent order under Section 1203.4
36 of the Penal Code, an order granting probation has been made
37 suspending the imposition of sentence; except that a licensee may,
38 at his or her option, elect to have the issue of penalty decided before
39 those time periods have elapsed. Where the licensee so elects, the
40 issue of penalty shall be heard in the manner described in

subdivision (b) at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of a licensee. If the conviction of a licensee who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Nothing in this subdivision shall prohibit the board from pursuing disciplinary action based on any cause other than the overturned conviction.

(e) The record of the proceedings resulting in a conviction, including a transcript of the testimony in those proceedings, may be received in evidence.

(f) Any other provision of law setting forth a procedure for the suspension or revocation of a license issued by the board shall not apply to proceedings conducted pursuant to this section.

~~SEC. 153.~~

SEC. 135. Section 4526.3 is added to the Business and Professions Code, to read:

4526.3. (a) Except as otherwise provided, any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee engaged in any act of sexual contact with a patient, as defined in subdivision (c) of Section 729, or any finding that the licensee has committed a sex offense, shall contain an order revoking the license. The proposed decision shall not contain any order staying the revocation of the licensee.

(b) As used in this section, the term ~~sex offense~~ “*sex offense*” shall mean any of the following:

(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

(2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1, or 647(a) or (d) of the Penal Code~~ *subdivisions (a) to (d), inclusive, of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d) of Section 647 of the Penal Code*, or a finding that a person committed such an act.

(3) Any attempt to commit any of the offenses specified in this section.

(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or

1 attempted in this state, would have been punishable as one or more
2 of the offenses specified in this section.

3 ~~SEC. 154. Section 4526.4 is added to the Business and~~
4 ~~Professions Code, to read:~~

5 ~~4526.4. (a) Except as otherwise provided, with regard to an~~
6 ~~individual who is required to register as a sex offender pursuant~~
7 ~~to Section 290 of the Penal Code, or the equivalent in another state~~
8 ~~or territory, under military law, or under federal law, the board~~
9 ~~shall be subject to the following requirements:~~

10 ~~(1) The board shall deny an application by the individual for~~
11 ~~licensure in accordance with the procedures set forth in Chapter~~
12 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
13 ~~Title 2 of the Government Code.~~

14 ~~(2) If the individual is licensed under this chapter, the board~~
15 ~~shall promptly revoke the license of the individual in accordance~~
16 ~~with the procedures set forth in Chapter 5 (commencing with~~
17 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
18 ~~Code. The board shall not stay the revocation and place the license~~
19 ~~on probation.~~

20 ~~(3) The board shall not reinstate or reissue the individual's~~
21 ~~license. The board shall not issue a stay of license denial nor place~~
22 ~~the license on probation.~~

23 ~~(b) This section shall not apply to any of the following:~~

24 ~~(1) An individual who has been relieved under Section 290.5~~
25 ~~of the Penal Code of his or her duty to register as a sex offender,~~
26 ~~or whose duty to register has otherwise been formally terminated~~
27 ~~under California law or the law of the jurisdiction that requires his~~
28 ~~or her registration as a sex offender.~~

29 ~~(2) An individual who is required to register as a sex offender~~
30 ~~pursuant to Section 290 of the Penal Code solely because of a~~
31 ~~misdemeanor conviction under Section 314 of the Penal Code.~~
32 ~~However, nothing in this paragraph shall prohibit the board from~~
33 ~~exercising its discretion to discipline a licensee under any other~~
34 ~~provision of state law based upon the licensee's conviction under~~
35 ~~Section 314 of the Penal Code.~~

36 ~~(3) Any administrative adjudication proceeding under Chapter~~
37 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
38 ~~Title 2 of the Government Code that is fully adjudicated prior to~~
39 ~~January 1, 2008. A petition for reinstatement of a revoked or~~
40 ~~surrendered license shall be considered a new proceeding for~~

1 purposes of this paragraph, and the prohibition against reinstating
2 a license to an individual who is required to register as a sex
3 offender shall be applicable.

4 SEC. 155. ~~Section 4526.5 is added to the Business and~~
5 ~~Professions Code, to read:~~

6 ~~4526.5. (a) Notwithstanding any other provision of law making~~
7 ~~a communication between a licensee and his or her patients a~~
8 ~~privileged communication, those provisions shall not apply to~~
9 ~~investigations or proceedings conducted by the board. Members~~
10 ~~of the board, deputies, employees, agents, the office of the Attorney~~
11 ~~General, and representatives of the board shall keep in confidence~~
12 ~~during the course of investigations the names of any patients whose~~
13 ~~records are reviewed and may not disclose or reveal those names,~~
14 ~~except as is necessary during the course of an investigation, unless~~
15 ~~and until proceedings are instituted. The authority under this~~
16 ~~subdivision to examine records of patients in the office of a licensee~~
17 ~~is limited to records of patients who have complained to the board~~
18 ~~about that licensee.~~

19 ~~(b) Notwithstanding any other provision of law, the Attorney~~
20 ~~General and his or her investigative agents, and the board and its~~
21 ~~investigators and representatives may inquire into any alleged~~
22 ~~violation of the laws under the jurisdiction of the board or any~~
23 ~~other federal or state law, regulation, or rule relevant to the practice~~
24 ~~regulated by the board, whichever is applicable, and may inspect~~
25 ~~documents relevant to those investigations in accordance with the~~
26 ~~following procedures:~~

27 ~~(1) Any document relevant to an investigation may be inspected,~~
28 ~~and copies may be obtained, where a patient provides written~~
29 ~~authorization.~~

30 ~~(2) Any document relevant to the business operations of a~~
31 ~~licensee, and not involving medical records attributable to~~
32 ~~identifiable patients, may be inspected and copied where relevant~~
33 ~~to an investigation of a licensee.~~

34 ~~(c) In all cases where documents are inspected or copies of those~~
35 ~~documents are received, their acquisition or review shall be~~
36 ~~arranged so as not to unnecessarily disrupt the medical and business~~
37 ~~operations of the licensee or of the facility where the records are~~
38 ~~kept or used.~~

39 ~~(d) Where certified documents are lawfully requested from~~
40 ~~licensees in accordance with this section by the Attorney General~~

1 or his or her agents or deputies, or investigators of any board, the
2 documents shall be provided within 10 business days of receipt of
3 the request, unless the licensee is unable to provide the certified
4 documents within this time period for good cause, including, but
5 not limited to, physical inability to access the records in the time
6 allowed due to illness or travel. Failure to produce requested
7 certified documents or copies thereof, after being informed of the
8 required deadline, shall constitute unprofessional conduct. A board
9 may use its authority to cite and fine a licensee for any violation
10 of this section. This remedy is in addition to any other authority
11 of the board to sanction a licensee for a delay in producing
12 requested records.

13 (e) ~~Searches conducted of the office or medical facility of any~~
14 ~~licensee shall not interfere with the recordkeeping format or~~
15 ~~preservation needs of any licensee necessary for the lawful care~~
16 ~~of patients.~~

17 (f) ~~The licensee shall cooperate with the board in furnishing~~
18 ~~information or assistance as may be required, including, but not~~
19 ~~limited to, participation in an interview with investigators or~~
20 ~~representatives of the healing arts board.~~

21 (g) ~~This section shall not apply to a licensee who does not have~~
22 ~~access to, and control over, certified medical records or other types~~
23 ~~of documents that belong to or are controlled by a health facility~~
24 ~~or clinic.~~

25 SEC. 156. ~~Section 4526.6 is added to the Business and~~
26 ~~Professions Code, to read:~~

27 4526.6. (a) (1) ~~Notwithstanding any other provision of law,~~
28 ~~a licensee who fails or refuses to comply with a request for the~~
29 ~~certified medical records of a patient that is accompanied by that~~
30 ~~patient's written authorization for release of records to a board~~
31 ~~together with a notice citing this section and describing the~~
32 ~~penalties for failure to comply with this section shall be required~~
33 ~~to pay to the board a civil penalty of up to one thousand dollars~~
34 ~~(\$1,000) per day for each day that the documents have not been~~
35 ~~produced after the 15th day, up to ten thousand dollars (\$10,000),~~
36 ~~unless the licensee is unable to provide the documents within this~~
37 ~~time period for good cause.~~

38 (2) ~~A health care facility shall comply with a request for the~~
39 ~~certified medical records of a patient that is accompanied by that~~
40 ~~patient's written authorization for release of records to a board~~

1 together with a notice citing this section and describing the
2 penalties for failure to comply with this section. Failure to provide
3 the authorizing patient's certified medical records to the board
4 within 15 days of receiving the request, authorization, and notice
5 shall subject the health care facility to a civil penalty, payable to
6 the healing arts board, of up to one thousand dollars (\$1,000) per
7 day for each day that the documents have not been produced after
8 the 15th day, up to ten thousand dollars (\$10,000), unless the health
9 care facility is unable to provide the documents within this time
10 period for good cause. This paragraph shall not require health care
11 facilities to assist the board in obtaining the patient's authorization.
12 The board shall pay the reasonable costs of copying the certified
13 medical records, but shall not be required to make that payment
14 prior to the production of the medical records.

15 (b) (1) A licensee who fails or refuses to comply with a court
16 order, issued in the enforcement of a subpoena, mandating the
17 release of records to the board, shall pay to the board a civil penalty
18 of up to one thousand dollars (\$1,000) per day for each day that
19 the documents have not been produced after the date by which the
20 court order requires the documents to be produced, up to ten
21 thousand dollars (\$10,000), unless it is determined that the order
22 is unlawful or invalid. Any statute of limitations applicable to the
23 filing of an accusation by the board shall be tolled during the period
24 the licensee is out of compliance with the court order and during
25 any related appeals.

26 (2) Any licensee who fails or refuses to comply with a court
27 order, issued in the enforcement of a subpoena, mandating the
28 release of records to a board is guilty of a misdemeanor punishable
29 by a fine payable to the board not to exceed five thousand dollars
30 (\$5,000). The fine shall be added to the licensee's renewal fee if
31 it is not paid by the next succeeding renewal date. Any statute of
32 limitations applicable to the filing of an accusation by the board
33 shall be tolled during the period the licensee is out of compliance
34 with the court order and during any related appeals.

35 (3) A health care facility that fails or refuses to comply with a
36 court order, issued in the enforcement of a subpoena, mandating
37 the release of patient records to the board, that is accompanied by
38 a notice citing this section and describing the penalties for failure
39 to comply with this section, shall pay to the board a civil penalty
40 of up to one thousand dollars (\$1,000) per day for each day that

1 the documents have not been produced, up to ten thousand dollars
2 (\$10,000), after the date by which the court order requires the
3 documents to be produced, unless it is determined that the order
4 is unlawful or invalid. Any statute of limitations applicable to the
5 filing of an accusation by the board against a licensee shall be
6 tolled during the period the health care facility is out of compliance
7 with the court order and during any related appeals.

8 (4) Any health care facility that fails or refuses to comply with
9 a court order, issued in the enforcement of a subpoena, mandating
10 the release of records to a healing arts board is guilty of a
11 misdemeanor punishable by a fine payable to the board not to
12 exceed five thousand dollars (\$5,000). Any statute of limitations
13 applicable to the filing of an accusation by the healing arts board
14 against a licensee shall be tolled during the period the health care
15 facility is out of compliance with the court order and during any
16 related appeals.

17 (e) Multiple acts by a licensee in violation of subdivision (b)
18 shall be punishable by a fine not to exceed five thousand dollars
19 (\$5,000) or by imprisonment in a county jail not exceeding six
20 months, or by both that fine and imprisonment. Multiple acts by
21 a health care facility in violation of subdivision (b) shall be
22 punishable by a fine not to exceed five thousand dollars (\$5,000);
23 shall be reported to the State Department of Public Health, and
24 shall be considered as grounds for disciplinary action with respect
25 to licensure, including suspension or revocation of the license or
26 certificate.

27 (d) A failure or refusal of a licensee to comply with a court
28 order, issued in the enforcement of a subpoena, mandating the
29 release of records to the healing arts board constitutes
30 unprofessional conduct and is grounds for suspension or revocation
31 of his or her license.

32 (e) Imposition of the civil penalties authorized by this section
33 shall be in accordance with the Administrative Procedure Act
34 (Chapter 5 (commencing with Section 11500) of Division 3 of
35 Title 2 of the Government Code). Any civil penalties paid to, or
36 received by, the board pursuant to this section shall be deposited
37 into the fund administered by the board.

38 (f) For purposes of this section, “certified medical records”
39 means a copy of the patient’s medical records authenticated by the

1 licensee or health care facility, as appropriate, on a form prescribed
2 by the licensee's board.

3 ~~(g) For purposes of this section, a "health care facility" means~~
4 ~~a clinic or health facility licensed or exempt from licensure~~
5 ~~pursuant to Division 2 (commencing with Section 1200) of the~~
6 ~~Health and Safety Code.~~

7 ~~(h) If a board complies with Section 1684.1, 2225.5, or 2969,~~
8 ~~that board shall not be subject to the requirements of this section.~~

9 ~~(i) This section shall not apply to a licensee who does not have~~
10 ~~access to, or control over, certified medical records or other types~~
11 ~~of documents that belong to or are controlled by a health facility~~
12 ~~or clinic.~~

13 ~~SEC. 157.~~

14 *SEC. 136.* Section 4526.8 is added to the Business and
15 Professions Code, to read:

16 4526.8. Unless otherwise provided, on or after July 1, 2013
17 2014, the board shall post on its Internet Web site the following
18 information, including the name and the license number, in its
19 possession, custody, or control regarding every licensee for which
20 whom the board licenses:

21 (a) With regard to the status of every license, whether or not
22 the licensee or former licensee is in good standing, subject to a
23 temporary restraining order, subject to an interim suspension order,
24 subject to a restriction or cease practice ordered pursuant to Section
25 23 of the Penal Code, or subject to any of the enforcement actions
26 described in Section 803.1.

27 (b) With regard to prior discipline of a licensee, whether or not
28 the licensee or former licensee has been subject to discipline by
29 the board or by the board of another state or jurisdiction, as
30 described in Section 803.1.

31 (c) Any felony conviction of a licensee reported to the board.

32 (d) All current accusations filed by the Attorney General,
33 including those accusations that are on appeal. For purposes of
34 this paragraph, "current accusation" means an accusation that has
35 not been dismissed, withdrawn, or settled, and has not been finally
36 decided upon by an administrative law judge and the board unless
37 an appeal of that decision is pending.

38 (e) Any malpractice judgment or arbitration award imposed
39 against a licensee and reported to the board.

1 (f) Any hospital disciplinary action imposed against a licensee
2 that resulted in the termination or revocation of a licensee's hospital
3 staff privileges for a medical disciplinary cause or reason pursuant
4 to Section ~~4526.6~~ or 805.

5 (g) Any misdemeanor conviction of a licensee that results in a
6 disciplinary action or an accusation that is not subsequently
7 withdrawn or dismissed.

8 (h) Appropriate disclaimers and explanatory statements to
9 accompany the above information, including an explanation of
10 what types of information are not disclosed. These disclaimers and
11 statements shall be developed by the board and shall be adopted
12 by regulation.

13 (i) The information provided on the Internet shall be in
14 accordance with the California Public Records Act (Chapter 3.5
15 (commencing with Section 6250) of Division 7 of Title 1 of the
16 Government Code) and the Information Practices Act of 1977
17 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
18 4 of Division 3 of the Civil Code) and shall comply with the
19 Department of Consumer Affairs Guidelines for Access to Public
20 Records.

21 (j) Information provided on the Internet may not include
22 personal information, unless otherwise provided pursuant to this
23 chapter, including the home telephone number, date of birth, or
24 social security number. The information may not include the
25 licensee's address, but may include the city and county of the
26 licensee's address of record.

27 ~~SEC. 158.~~

28 *SEC. 137.* Section 4526.9 is added to the Business and
29 Professions Code, to read:

30 4526.9. (a) Unless otherwise provided, if a licensee possesses
31 a license or is otherwise authorized to practice in any state other
32 than California or by any agency of the federal government and
33 that license or authority is suspended or revoked outright, the
34 California license of the licensee shall be suspended automatically
35 for the duration of the suspension or revocation, unless terminated
36 or rescinded as provided in subdivision (c). The healing arts board
37 shall notify the licensee of the license suspension and of his or her
38 right to have the issue of penalty heard as provided in this section.

39 (b) Upon its own motion or for good cause shown, the board
40 may decline to impose or may set aside the suspension when it

1 appears to be in the interest of justice to do so, with due regard to
2 maintaining the integrity of, and confidence in, the specific healing
3 art.

4 (c) The issue of penalty shall be heard by an administrative law
5 judge sitting alone or with a panel of the board, in the discretion
6 of the board. A licensee may request a hearing on the penalty and
7 that hearing shall be held within 90 days from the date of the
8 request. If the order suspending or revoking the license or authority
9 to practice is overturned on appeal, any discipline ordered pursuant
10 to this section shall automatically cease. Upon a showing to the
11 administrative law judge or panel by the licensee that the
12 out-of-state action is not a basis for discipline in California, the
13 suspension shall be rescinded. If an accusation for permanent
14 discipline is not filed within 90 days of the suspension imposed
15 pursuant to this section, the suspension shall automatically
16 terminate.

17 (d) The record of the proceedings that resulted in the suspension
18 or revocation of the licensee's out-of-state license or authority to
19 practice, including a transcript of the testimony therein, may be
20 received in evidence.

21 (e) This section shall not apply to a licensee who maintains his
22 or her primary practice in California, as evidenced by having
23 maintained a practice in this state for not less than one year
24 immediately preceding the date of suspension or revocation.
25 Nothing in this section shall preclude a licensee's license from
26 being suspended pursuant to any other provision of law.

27 (f) This section shall not apply to a licensee whose license has
28 been surrendered, whose only discipline is a medical staff
29 disciplinary action at a federal hospital and not for medical
30 disciplinary cause or reason as that term is defined in Section 805,
31 or whose revocation or suspension has been stayed, even if the
32 licensee remains subject to terms of probation or other discipline.

33 (g) This section shall not apply to a suspension or revocation
34 imposed by a state that is based solely on the prior discipline of
35 the licensee by another state.

36 (h) The other provisions of this article setting forth a procedure
37 for the suspension or revocation of a licensee's license or certificate
38 shall not apply to summary suspensions issued pursuant to this
39 section. If a summary suspension has been issued pursuant to this
40 section, the licensee may request that the hearing on the penalty

1 conducted pursuant to subdivision (c) be held at the same time as
2 a hearing on the accusation.

3 ~~(i) A board that complies with Section 2310 shall not be subject~~
4 ~~to the requirements of this section.~~

5 *SEC. 138. Section 4543.5 is added to the Business and*
6 *Professions Code, to read:*

7 *4543.5. Notwithstanding any other provision of law, it is a*
8 *public offense, punishable by a fine not to exceed one hundred*
9 *thousand dollars (\$100,000), by imprisonment in a county jail not*
10 *to exceed one year, or by both that fine and imprisonment, for:*

11 *(a) Any person who does not hold a current and valid psychiatric*
12 *technician license to engage in that practice.*

13 *(b) Any person to fraudulently buy, sell, or obtain a psychiatric*
14 *technician license or to violate any provision of this chapter.*

15 *SEC. 139. Section 4860 of the Business and Professions Code*
16 *is amended to read:*

17 *4860. (a) It is the intent of the Legislature that the Veterinary*
18 *Medical Board seek ways and means to identify and rehabilitate*
19 *veterinarians and registered veterinary technicians with impairment*
20 *due to abuse of dangerous drugs or alcohol, affecting competency*
21 *so that veterinarians and registered veterinary technicians so*
22 *afflicted may be treated and returned to the practice of veterinary*
23 *medicine in a manner that will not endanger the public health and*
24 *safety.*

25 *(b) It is the intent of the Legislature, through a request in 2013*
26 *from the Joint Legislative Audit Committee, that the Bureau of*
27 *State Audits conduct a thorough performance audit of the board's*
28 *diversion program to evaluate the effectiveness and efficiency of*
29 *the program, and make recommendations regarding the*
30 *continuation of the program and any changes or reforms required*
31 *to ensure that veterinarians and registered veterinary technicians*
32 *participating in the program are appropriately monitored and that*
33 *the public is protected from veterinarians and registered veterinary*
34 *technicians who are impaired due to alcohol or drug abuse or*
35 *mental or physical illness. The audit shall be completed by January*
36 *1, 2014. The board and its staff shall cooperate with the audit,*
37 *and the board shall provide data, information, and case files as*
38 *requested by the auditor to perform all of his or her duties. The*
39 *provision of confidential data, information, and case files by the*
40 *board to the auditor shall not constitute a waiver of any exemption*

1 *from disclosure or discovery or of any confidentiality protection*
2 *or privilege otherwise provided by law that is applicable to the*
3 *data, information, or case files.*

4 *(c) It is the intent of the Legislature that the audit be paid for*
5 *with funds from the Veterinary Medical Board Contingent Fund.*

6 ~~SEC. 159.~~

7 *SEC. 140.* Section 4888 is added to the Business and
8 Professions Code, to read:

9 4888. (a) The board may delegate to its executive officer the
10 authority to adopt a proposed default decision where an
11 administrative action to revoke a license has been filed and the
12 licensee has failed to file a notice of defense or to appear at the
13 hearing and a proposed default decision revoking the license has
14 been issued.

15 (b) The board may delegate to its executive officer the authority
16 to adopt a proposed settlement agreement where an administrative
17 action to revoke a license has been filed by the board and the
18 licensee has agreed to the revocation or surrender of his or her
19 license.

20 (c) The executive officer shall, at scheduled board meetings,
21 report to the board the number of proposed default decisions or
22 proposed settlement agreements adopted pursuant to this section.

23 ~~SEC. 160.~~

24 *SEC. 141.* Section 4888.1 is added to the Business and
25 Professions Code, to read:

26 4888.1. (a) Notwithstanding Section 11415.60 of the
27 Government Code, the board may enter into a settlement with a
28 licensee or applicant in lieu of the issuance of an accusation or
29 statement of issues against that licensee or applicant, as applicable.

30 (b) The settlement shall include language identifying the factual
31 basis for the action being taken and a list of the statutes or
32 regulations violated.

33 (c) A person who enters *into* a settlement pursuant to this section
34 is not precluded from filing a petition, in the timeframe permitted
35 by law, to modify the terms of the settlement or petition for early
36 termination of probation, if probation is part of the settlement.

37 (d) Any settlement against a licensee executed pursuant to this
38 section shall be considered discipline and a public record and shall
39 be posted on the applicable board's Internet Web site. Any
40 settlement against an applicant executed pursuant to this section

1 shall be considered a public record and shall be posted on the
2 applicable board's Internet Web site.

3 (e) The executive officer shall, at scheduled board meetings,
4 report to the board the number of proposed settlement agreements
5 adopted pursuant to this section.

6 ~~SEC. 161.~~

7 *SEC. 142.* Section 4888.2 is added to the Business and
8 Professions Code, to read:

9 4888.2. (a) The license of a licensee shall be suspended
10 automatically during any time that the licensee is incarcerated after
11 conviction of a felony, regardless of whether the conviction has
12 been appealed. The board shall, immediately upon receipt of the
13 certified copy of the record of conviction, determine whether the
14 license of the licensee has been automatically suspended by virtue
15 of his or her incarceration, and if so, the duration of that
16 suspension. The board shall notify the licensee in writing of the
17 license suspension and of his or her right to elect to have the issue
18 of penalty heard as provided in subdivision (d).

19 (b) Upon receipt of the certified copy of the record of conviction,
20 if after a hearing before an administrative law judge from the Office
21 of Administrative Hearings it is determined that the felony for
22 which the licensee was convicted was substantially related to the
23 qualifications, functions, or duties of a licensee, the board shall
24 suspend the license until the time for appeal has elapsed, if no
25 appeal has been taken, or until the judgment of conviction has been
26 affirmed on appeal or has otherwise become final, and until further
27 order of the board.

28 (c) Notwithstanding subdivision (b), a conviction of a charge
29 of violating any federal statute or regulation or any statute or
30 regulation of this state, regulating dangerous drugs or controlled
31 substances, or a conviction of Section 187, 261, 262, or 288 of the
32 Penal Code, shall be conclusively presumed to be substantially
33 related to the qualifications, functions, or duties of a licensee and
34 no hearing shall be held on this issue. However, upon its own
35 motion or for good cause shown, the board may decline to impose
36 or may set aside the suspension when it appears to be in the interest
37 of justice to do so, with due regard to maintaining the integrity of,
38 and confidence in, the practice regulated by the board.

39 (d) (1) Discipline may be ordered against a licensee in
40 accordance with the statutes and regulations of the board when the

1 time for appeal has elapsed, the judgment of conviction has been
2 affirmed on appeal, or an order granting probation is made
3 suspending the imposition of sentence, irrespective of a subsequent
4 order under Section 1203.4 of the Penal Code allowing the person
5 to withdraw his or her plea of guilty and to enter a plea of not
6 guilty, setting aside the verdict of guilty, or dismissing the
7 accusation, complaint, information, or indictment.

8 (2) The issue of penalty shall be heard by an administrative law
9 judge from the Office of Administrative Hearings. The hearing
10 shall not be ~~had~~ *held* until the judgment of conviction has become
11 final or, irrespective of a subsequent order under Section 1203.4
12 of the Penal Code, an order granting probation has been made
13 suspending the imposition of sentence; except that a licensee may,
14 at his or her option, elect to have the issue of penalty decided before
15 those time periods have elapsed. Where the licensee so elects, the
16 issue of penalty shall be heard in the manner described in
17 subdivision (b) at the hearing to determine whether the conviction
18 was substantially related to the qualifications, functions, or duties
19 of a licensee. If the conviction of a licensee who has made this
20 election is overturned on appeal, any discipline ordered pursuant
21 to this section shall automatically cease. Nothing in this subdivision
22 shall prohibit the board from pursuing disciplinary action based
23 on any cause other than the overturned conviction.

24 (e) The record of the proceedings resulting in a conviction,
25 including a transcript of the testimony in those proceedings, may
26 be received in evidence.

27 (f) Any other provision of law setting forth a procedure for the
28 suspension or revocation of a license issued by the board shall not
29 apply to proceedings conducted pursuant to this section.

30 ~~SEC. 162.~~

31 *SEC. 143.* Section 4888.3 is added to the Business and
32 Professions Code, to read:

33 4888.3. (a) Except as otherwise provided, any proposed
34 decision or decision issued in accordance with the procedures set
35 forth in Chapter 5 (commencing with Section 11500) of Part 1 of
36 Division 3 of Title 2 of the Government Code, that contains any
37 finding of fact that the licensee engaged in any act of sexual contact
38 with a patient, as defined in subdivision (c) of Section 729, or any
39 finding that the licensee has committed a sex offense, shall contain

1 an order revoking the license. The proposed decision shall not
2 contain any order staying the revocation of the licensee.

3 (b) As used in this section, the term ~~sex offense~~ “*sex offense*”
4 shall mean any of the following:

5 (1) Any offense for which registration is required by Section
6 290 of the Penal Code or a finding that a person committed such
7 an act.

8 (2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1,~~
9 ~~or 647(a) or (d) of the Penal Code subdivisions (a) to (d), inclusive,~~
10 ~~of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d)~~
11 ~~of Section 647 of the Penal Code,~~ or a finding that a person
12 committed such an act.

13 (3) Any attempt to commit any of the offenses specified in this
14 section.

15 (4) Any offense committed or attempted in any other state or
16 against the laws of the United States which, if committed or
17 attempted in this state, would have been punishable as one or more
18 of the offenses specified in this section.

19 ~~SEC. 163. Section 4888.4 is added to the Business and~~
20 ~~Professions Code, to read:~~

21 ~~4888.4. (a) Except as otherwise provided, with regard to an~~
22 ~~individual who is required to register as a sex offender pursuant~~
23 ~~to Section 290 of the Penal Code, or the equivalent in another state~~
24 ~~or territory, under military law, or under federal law, the board~~
25 ~~shall be subject to the following requirements:~~

26 ~~(1) The board shall deny an application by the individual for~~
27 ~~licensure in accordance with the procedures set forth in Chapter~~
28 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
29 ~~Title 2 of the Government Code.~~

30 ~~(2) If the individual is licensed under this chapter, the board~~
31 ~~shall promptly revoke the license of the individual in accordance~~
32 ~~with the procedures set forth in Chapter 5 (commencing with~~
33 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
34 ~~Code. The board shall not stay the revocation and place the license~~
35 ~~on probation.~~

36 ~~(3) The board shall not reinstate or reissue the individual's~~
37 ~~license. The board shall not issue a stay of license denial nor place~~
38 ~~the license on probation.~~

39 ~~(b) This section shall not apply to any of the following:~~

1 ~~(1) An individual who has been relieved under Section 290.5~~
2 ~~of the Penal Code of his or her duty to register as a sex offender,~~
3 ~~or whose duty to register has otherwise been formally terminated~~
4 ~~under California law or the law of the jurisdiction that requires his~~
5 ~~or her registration as a sex offender.~~

6 ~~(2) An individual who is required to register as a sex offender~~
7 ~~pursuant to Section 290 of the Penal Code solely because of a~~
8 ~~misdemeanor conviction under Section 314 of the Penal Code.~~
9 ~~However, nothing in this paragraph shall prohibit the board from~~
10 ~~exercising its discretion to discipline a licensee under any other~~
11 ~~provision of state law based upon the licensee's conviction under~~
12 ~~Section 314 of the Penal Code.~~

13 ~~(3) Any administrative adjudication proceeding under Chapter~~
14 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
15 ~~Title 2 of the Government Code that is fully adjudicated prior to~~
16 ~~January 1, 2008. A petition for reinstatement of a revoked or~~
17 ~~surrendered license shall be considered a new proceeding for~~
18 ~~purposes of this paragraph, and the prohibition against reinstating~~
19 ~~a license to an individual who is required to register as a sex~~
20 ~~offender shall be applicable.~~

21 ~~SEC. 164.~~

22 ~~SEC. 144.~~ Section 4888.5 is added to the Business and
23 Professions Code, to read:

24 4888.5. (a) Notwithstanding any other provision of law, any
25 employer of a licensee shall report to the board the suspension or
26 termination for cause, or any resignation in lieu of suspension or
27 termination for cause, of any licensee in its employ within 15
28 business days. The report shall not be made until after the
29 conclusion of the review process specified in Section 52.3 of Title
30 2 of the California Code of Regulations and *Skelly v. State*
31 *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This
32 required reporting shall not constitute a waiver of confidentiality
33 of medical records. The information reported or disclosed shall be
34 kept confidential except as provided in subdivision (c) of Section
35 800 and shall not be subject to discovery in civil cases.

36 (b) The information to be reported by the employer shall include
37 the name and license number of the licensee involved, a
38 description of the facts and circumstances of the suspension or
39 termination for cause, any resignation in lieu of suspension or

1 termination for cause, and any other relevant information deemed
2 appropriate by the employer.

3 (c) The board shall be entitled to inspect and copy the following
4 documents in the record for any suspension or termination for
5 cause, or any resignation in lieu of suspension or termination for
6 cause, resulting in action that is required to be reported pursuant
7 to this section:

8 (1) Any statement for suspension or termination of the licensee.

9 (2) Any document or exhibits relevant to the suspension or
10 termination.

11 (d) If, during the investigation by the board of the cause for the
12 termination or suspension or resignation of the licensee, it is found
13 that there has been a violation of existing state or federal law, the
14 board shall report the violation to the appropriate agency.

15 (e) For purposes of this section, “suspension or termination for
16 cause” or “resignation in lieu of suspension or termination for
17 cause” is defined as resignation, suspension, or termination from
18 employment for any of the following reasons:

19 (1) Use of controlled substances or alcohol to the extent that it
20 impairs the licensee’s ability to safely practice.

21 (2) Unlawful sale of a controlled substance or other prescription
22 items.

23 (3) Patient or client abuse, neglect, physical harm, or sexual
24 contact with a patient or client.

25 (4) Gross negligence or incompetence.

26 (5) Theft from a patient or client, any other employee, or the
27 employer.

28 (f) As used in this section, the following definitions apply:

29 (1) “Gross negligence” means a substantial departure from the
30 standard of care, which, under similar circumstances, would have
31 ordinarily been exercised by a competent licensee, and which has
32 or could have resulted in harm to the consumer. An exercise of so
33 slight a degree of care as to justify the belief that there was a
34 conscious disregard or indifference for the health, safety, or welfare
35 of the consumer shall be considered a substantial departure from
36 the standard of care.

37 (2) “Incompetence” means the lack of possession of, and the
38 failure to exercise that degree of learning, skill, care, and
39 experience ordinarily possessed by, a responsible licensee.

1 (3) “Willful” means a knowing and intentional violation of a
2 known legal duty.

3 (g) (1) Willful failure of an employer to make a report required
4 by this section is punishable by an administrative fine not to exceed
5 one hundred thousand dollars (\$100,000) per violation.

6 (2) Any failure of an employer, other than willful failure, to
7 make a report required by this section is punishable by an
8 administrative fine not to exceed fifty thousand dollars (\$50,000).

9 (h) The board shall investigate the circumstances underlying
10 any report received pursuant to this section within 30 days to
11 determine if an interim suspension order or temporary restraining
12 order should be issued. The board shall otherwise provide timely
13 disposition of the reports received pursuant to this section.

14 (i) The board shall send to the licentiate a copy of the report
15 along with the reasons for the filing of the report and notice
16 advising the licentiate of his or her right to submit additional
17 statements or other information to the board.

18 (j) Pursuant to Section 43.8 of the Civil Code, no person shall
19 incur any civil penalty as a result of making any report required
20 by this article.

21 (k) No report is required under this section where a report of
22 the action taken is already required under Section 805.

23 ~~SEC. 165.~~

24 *SEC. 145.* Section 4888.6 is added to the Business and
25 Professions Code, to read:

26 4888.6. Unless otherwise provided, on or after July 1, ~~2013~~
27 ~~2014~~, the board shall post on its Internet Web site the following
28 information, including the name and license number, in its
29 possession, custody, or control regarding every licensee ~~for which~~
30 *whom* the board licenses:

31 (a) With regard to the status of every license, whether or not
32 the licensee or former licensee is in good standing, subject to a
33 temporary restraining order, subject to an interim suspension order,
34 subject to a restriction or cease practice ordered pursuant to Section
35 23 of the Penal Code, or subject to any of the enforcement actions
36 described in Section 803.1.

37 (b) With regard to prior discipline of a licensee, whether or not
38 the licensee or former licensee has been subject to discipline by
39 the board or by the board of another state or jurisdiction, as
40 described in Section 803.1.

1 (c) Any felony conviction of a licensee reported to the board.

2 (d) All current accusations filed by the Attorney General,
3 including those accusations that are on appeal. For purposes of
4 this paragraph, “current accusation” means an accusation that has
5 not been dismissed, withdrawn, or settled, and has not been finally
6 decided upon by an administrative law judge and the board unless
7 an appeal of that decision is pending.

8 (e) Any malpractice judgment or arbitration award imposed
9 against a licensee and reported to the board.

10 (f) Any hospital disciplinary action imposed against a licensee
11 that resulted in the termination or revocation of a licensee’s hospital
12 staff privileges for a medical disciplinary cause or reason pursuant
13 to Section 805.

14 (g) Any misdemeanor conviction of a licensee that results in a
15 disciplinary action or an accusation that is not subsequently
16 withdrawn or dismissed.

17 (h) Appropriate disclaimers and explanatory statements to
18 accompany the above information, including an explanation of
19 what types of information are not disclosed. These disclaimers and
20 statements shall be developed by the board and shall be adopted
21 by regulation.

22 (i) The information provided on the Internet shall be in
23 accordance with the California Public Records Act (Chapter 3.5
24 (commencing with Section 6250) of Division 7 of Title 1 of the
25 Government Code) and the Information Practices Act of 1977
26 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
27 4 of Division 3 of the Civil Code) and shall comply with the
28 Department of Consumer Affairs Guidelines for Access to Public
29 Records.

30 (j) Information provided on the Internet may not include
31 personal information, unless otherwise provided pursuant to this
32 chapter, including the home telephone number, date of birth, or
33 social security number. The information may not include the
34 licensee’s address, but may include the city and county of the
35 licensee’s address of record.

36 ~~SEC. 146.~~

37 *SEC. 146.* Section 4888.7 is added to the Business and
38 Professions Code, to read:

39 4888.7. (a) Unless otherwise provided, if a licensee possesses
40 a license or is otherwise authorized to practice in any state other

1 than California or by any agency of the federal government and
2 that license or authority is suspended or revoked outright, the
3 California license of the licensee shall be suspended automatically
4 for the duration of the suspension or revocation, unless terminated
5 or rescinded as provided in subdivision (c). The board shall notify
6 the licensee of the license suspension and of his or her right to
7 have the issue of penalty heard as provided in this section.

8 (b) Upon its own motion or for good cause shown, the board
9 may decline to impose or may set aside the suspension when it
10 appears to be in the interest of justice to do so, with due regard to
11 maintaining the integrity of, and confidence in, the specific healing
12 art.

13 (c) The issue of penalty shall be heard by an administrative law
14 judge sitting alone or with a panel of the board, in the discretion
15 of the board. A licensee may request a hearing on the penalty and
16 that hearing shall be held within 90 days from the date of the
17 request. If the order suspending or revoking the license or authority
18 to practice is overturned on appeal, any discipline ordered pursuant
19 to this section shall automatically cease. Upon a showing to the
20 administrative law judge or panel by the licensee that the
21 out-of-state action is not a basis for discipline in California, the
22 suspension shall be rescinded. If an accusation for permanent
23 discipline is not filed within 90 days of the suspension imposed
24 pursuant to this section, the suspension shall automatically
25 terminate.

26 (d) The record of the proceedings that resulted in the suspension
27 or revocation of the licensee's out-of-state license or authority to
28 practice, including a transcript of the testimony therein, may be
29 received in evidence.

30 (e) This section shall not apply to a licensee who maintains his
31 or her primary practice in California, as evidenced by having
32 maintained a practice in this state for not less than one year
33 immediately preceding the date of suspension or revocation.
34 Nothing in this section shall preclude a licensee's license from
35 being suspended pursuant to any other provision of law.

36 (f) This section shall not apply to a licensee whose license has
37 been surrendered, whose only discipline is a medical staff
38 disciplinary action at a federal hospital and not for medical
39 disciplinary cause or reason as that term is defined in Section 805,

1 or whose revocation or suspension has been stayed, even if the
2 licensee remains subject to terms of probation or other discipline.

3 (g) This section shall not apply to a suspension or revocation
4 imposed by a state that is based solely on the prior discipline of
5 the licensee by another state.

6 (h) The other provisions of this article setting forth a procedure
7 for the suspension or revocation of a licensee's license or certificate
8 shall not apply to summary suspensions issued pursuant to this
9 section. If a summary suspension has been issued pursuant to this
10 section, the licensee may request that the hearing on the penalty
11 conducted pursuant to subdivision (c) be held at the same time as
12 a hearing on the accusation.

13 ~~(i) A board that complies with Section 2310 shall not be subject~~
14 ~~to the requirements of this section.~~

15 *SEC. 147. Section 4962 is added to the Business and*
16 *Professions Code, to read:*

17 *4962. Notwithstanding any other provision of law, it is a public*
18 *offense, punishable by a fine not to exceed one hundred thousand*
19 *dollars (\$100,000), by imprisonment in a county jail not to exceed*
20 *one year, or by both that fine and imprisonment, for:*

21 *(a) Any person who does not hold a current and valid license*
22 *to practice acupuncture to engage in that practice.*

23 *(b) Any person to fraudulently buy, sell, or obtain a license to*
24 *practice acupuncture or to violate any provision of this chapter.*

25 ~~SEC. 167.~~

26 *SEC. 148. Section 4964.1 is added to the Business and*
27 *Professions Code, to read:*

28 *4964.1. (a) The board may delegate to its executive officer*
29 *the authority to adopt a proposed default decision where an*
30 *administrative action to revoke a license has been filed and the*
31 *licensee has failed to file a notice of defense or to appear at the*
32 *hearing and a proposed default decision revoking the license has*
33 *been issued.*

34 *(b) The board may delegate to its executive officer the authority*
35 *to adopt a proposed settlement agreement where an administrative*
36 *action to revoke a license has been filed by the board and the*
37 *licensee has agreed to the revocation or surrender of his or her*
38 *license.*

1 (c) The executive officer shall, at scheduled board meetings,
2 report to the board the number of proposed default decisions or
3 proposed settlement agreements adopted pursuant to this section.

4 ~~SEC. 168.~~

5 *SEC. 149.* Section 4964.2 is added to the Business and
6 Professions Code, to read:

7 4964.2. (a) Notwithstanding Section 11415.60 of the
8 Government Code, the board may enter into a settlement with a
9 licensee or applicant in lieu of the issuance of an accusation or
10 statement of issues against that licensee or applicant, as applicable.

11 (b) The settlement shall include language identifying the factual
12 basis for the action being taken and a list of the statutes or
13 regulations violated.

14 (c) A person who enters *into* a settlement pursuant to this section
15 is not precluded from filing a petition, in the timeframe permitted
16 by law, to modify the terms of the settlement or petition for early
17 termination of probation, if probation is part of the settlement.

18 (d) Any settlement against a licensee executed pursuant to this
19 section shall be considered discipline and a public record and shall
20 be posted on the applicable board's Internet Web site. Any
21 settlement against an applicant executed pursuant to this section
22 shall be considered a public record and shall be posted on the
23 applicable board's Internet Web site.

24 (e) The executive officer shall, at scheduled board meetings,
25 report to the board the number of proposed settlement agreements
26 adopted pursuant to this section.

27 ~~SEC. 169.~~

28 *SEC. 150.* Section 4964.3 is added to the Business and
29 Professions Code, to read:

30 4964.3. (a) The license of a licensee shall be suspended
31 automatically during any time that the licensee is incarcerated after
32 conviction of a felony, regardless of whether the conviction has
33 been appealed. The board shall, immediately upon receipt of the
34 certified copy of the record of conviction, determine whether the
35 license of the licensee has been automatically suspended by virtue
36 of his or her incarceration, and if so, the duration of that
37 suspension. The board shall notify the licensee in writing of the
38 license suspension and of his or her right to elect to have the issue
39 of penalty heard as provided in subdivision (d).

1 (b) Upon receipt of the certified copy of the record of conviction,
2 if after a hearing before an administrative law judge from the Office
3 of Administrative Hearings it is determined that the felony for
4 which the licensee was convicted was substantially related to the
5 qualifications, functions, or duties of a licensee, the board shall
6 suspend the license until the time for appeal has elapsed, if no
7 appeal has been taken, or until the judgment of conviction has been
8 affirmed on appeal or has otherwise become final, and until further
9 order of the board.

10 (c) Notwithstanding subdivision (b), a conviction of a charge
11 of violating any federal statute or regulation or any statute or
12 regulation of this state, regulating dangerous drugs or controlled
13 substances, or a conviction of Section 187, 261, 262, or 288 of the
14 Penal Code, shall be conclusively presumed to be substantially
15 related to the qualifications, functions, or duties of a licensee and
16 no hearing shall be held on this issue. However, upon its own
17 motion or for good cause shown, the board may decline to impose
18 or may set aside the suspension when it appears to be in the interest
19 of justice to do so, with due regard to maintaining the integrity of,
20 and confidence in, the practice regulated by the board.

21 (d) (1) Discipline may be ordered against a licensee in
22 accordance with the statutes and regulations of the board when the
23 time for appeal has elapsed, the judgment of conviction has been
24 affirmed on appeal, or an order granting probation is made
25 suspending the imposition of sentence, irrespective of a subsequent
26 order under Section 1203.4 of the Penal Code allowing the person
27 to withdraw his or her plea of guilty and to enter a plea of not
28 guilty, setting aside the verdict of guilty, or dismissing the
29 accusation, complaint, information, or indictment.

30 (2) The issue of penalty shall be heard by an administrative law
31 judge from the Office of Administrative Hearings. The hearing
32 shall not be ~~had~~ held until the judgment of conviction has become
33 final or, irrespective of a subsequent order under Section 1203.4
34 of the Penal Code, an order granting probation has been made
35 suspending the imposition of sentence; except that a licensee may,
36 at his or her option, elect to have the issue of penalty decided before
37 those time periods have elapsed. Where the licensee so elects, the
38 issue of penalty shall be heard in the manner described in
39 subdivision (b) at the hearing to determine whether the conviction
40 was substantially related to the qualifications, functions, or duties

1 of a licensee. If the conviction of a licensee who has made this
2 election is overturned on appeal, any discipline ordered pursuant
3 to this section shall automatically cease. Nothing in this subdivision
4 shall prohibit the board from pursuing disciplinary action based
5 on any cause other than the overturned conviction.

6 (e) The record of the proceedings resulting in a conviction,
7 including a transcript of the testimony in those proceedings, may
8 be received in evidence.

9 (f) Any other provision of law setting forth a procedure for the
10 suspension or revocation of a license issued by the board shall not
11 apply to proceedings conducted pursuant to this section.

12 ~~SEC. 170.~~

13 *SEC. 151.* Section 4964.4 is added to the Business and
14 Professions Code, to read:

15 4964.4. (a) Except as otherwise provided, any proposed
16 decision or decision issued in accordance with the procedures set
17 forth in Chapter 5 (commencing with Section 11500) of Part 1 of
18 Division 3 of Title 2 of the Government Code, that contains any
19 finding of fact that the licensee engaged in any act of sexual contact
20 with a patient, as defined in subdivision (c) of Section 729, or any
21 finding that the licensee has committed a sex offense, shall contain
22 an order revoking the license. The proposed decision shall not
23 contain any order staying the revocation of the licensee.

24 (b) As used in this section, the term ~~sex offense~~ “sex offense”
25 shall mean any of the following:

26 (1) Any offense for which registration is required by Section
27 290 of the Penal Code or a finding that a person committed such
28 an act.

29 (2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1,~~
30 ~~or 647(a) or (d) of the Penal Code~~ *subdivisions (a) to (d), inclusive,*
31 *of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d)*
32 *of Section 647 of the Penal Code*, or a finding that a person
33 committed such an act.

34 (3) Any attempt to commit any of the offenses specified in this
35 section.

36 (4) Any offense committed or attempted in any other state or
37 against the laws of the United States which, if committed or
38 attempted in this state, would have been punishable as one or more
39 of the offenses specified in this section.

1 ~~SEC. 171. Section 4964.55 is added to the Business and~~
2 ~~Professions Code, to read:~~

3 ~~4964.55. (a) Except as otherwise provided, with regard to an~~
4 ~~individual who is required to register as a sex offender pursuant~~
5 ~~to Section 290 of the Penal Code, or the equivalent in another state~~
6 ~~or territory, under military law, or under federal law, the board~~
7 ~~shall be subject to the following requirements:~~

8 ~~(1) The board shall deny an application by the individual for~~
9 ~~licensure in accordance with the procedures set forth in Chapter~~
10 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
11 ~~Title 2 of the Government Code.~~

12 ~~(2) If the individual is licensed under this chapter, the board~~
13 ~~shall promptly revoke the license of the individual in accordance~~
14 ~~with the procedures set forth in Chapter 5 (commencing with~~
15 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~
16 ~~Code. The board shall not stay the revocation and place the license~~
17 ~~on probation.~~

18 ~~(3) The board shall not reinstate or reissue the individual's~~
19 ~~license. The board shall not issue a stay of license denial nor place~~
20 ~~the license on probation.~~

21 ~~(b) This section shall not apply to any of the following:~~

22 ~~(1) An individual who has been relieved under Section 290.5~~
23 ~~of the Penal Code of his or her duty to register as a sex offender,~~
24 ~~or whose duty to register has otherwise been formally terminated~~
25 ~~under California law or the law of the jurisdiction that requires his~~
26 ~~or her registration as a sex offender.~~

27 ~~(2) An individual who is required to register as a sex offender~~
28 ~~pursuant to Section 290 of the Penal Code solely because of a~~
29 ~~misdemeanor conviction under Section 314 of the Penal Code.~~
30 ~~However, nothing in this paragraph shall prohibit the board from~~
31 ~~exercising its discretion to discipline a licensee under any other~~
32 ~~provision of state law based upon the licensee's conviction under~~
33 ~~Section 314 of the Penal Code.~~

34 ~~(3) Any administrative adjudication proceeding under Chapter~~
35 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
36 ~~Title 2 of the Government Code that is fully adjudicated prior to~~
37 ~~January 1, 2008. A petition for reinstatement of a revoked or~~
38 ~~surrendered license shall be considered a new proceeding for~~
39 ~~purposes of this paragraph, and the prohibition against reinstating~~

1 a license to an individual who is required to register as a sex
2 offender shall be applicable.

3 SEC. 172. Section 4964.6 is added to the Business and
4 Professions Code, to read:

5 4964.6. (a) Notwithstanding any other provision of law making
6 a communication between a licensee and his or her patients a
7 privileged communication, those provisions shall not apply to
8 investigations or proceedings conducted by the board. Members
9 of the board, deputies, employees, agents, the office of the Attorney
10 General, and representatives of the board shall keep in confidence
11 during the course of investigations the names of any patients whose
12 records are reviewed and may not disclose or reveal those names,
13 except as is necessary during the course of an investigation, unless
14 and until proceedings are instituted. The authority under this
15 subdivision to examine records of patients in the office of a licensee
16 is limited to records of patients who have complained to the board
17 about that licensee.

18 (b) Notwithstanding any other provision of law, the Attorney
19 General and his or her investigative agents, and the board and its
20 investigators and representatives may inquire into any alleged
21 violation of the laws under the jurisdiction of the board or any
22 other federal or state law, regulation, or rule relevant to the practice
23 regulated by the board, whichever is applicable, and may inspect
24 documents relevant to those investigations in accordance with the
25 following procedures:

26 (1) Any document relevant to an investigation may be inspected,
27 and copies may be obtained, where a patient provides written
28 authorization.

29 (2) Any document relevant to the business operations of a
30 licensee, and not involving medical records attributable to
31 identifiable patients, may be inspected and copied where relevant
32 to an investigation of a licensee.

33 (c) In all cases where documents are inspected or copies of those
34 documents are received, their acquisition or review shall be
35 arranged so as not to unnecessarily disrupt the medical and business
36 operations of the licensee or of the facility where the records are
37 kept or used.

38 (d) Where certified documents are lawfully requested from
39 licensees in accordance with this section by the Attorney General
40 or his or her agents or deputies, or investigators of any board, the

1 documents shall be provided within 10 business days of receipt of
2 the request, unless the licensee is unable to provide the certified
3 documents within this time period for good cause, including, but
4 not limited to, physical inability to access the records in the time
5 allowed due to illness or travel. Failure to produce requested
6 certified documents or copies thereof, after being informed of the
7 required deadline, shall constitute unprofessional conduct. A board
8 may use its authority to cite and fine a licensee for any violation
9 of this section. This remedy is in addition to any other authority
10 of the healing arts board to sanction a licensee for a delay in
11 producing requested records.

12 (e) ~~Searches conducted of the office or medical facility of any~~
13 ~~licensee shall not interfere with the recordkeeping format or~~
14 ~~preservation needs of any licensee necessary for the lawful care~~
15 ~~of patients.~~

16 (f) ~~The licensee shall cooperate with the board in furnishing~~
17 ~~information or assistance as may be required, including, but not~~
18 ~~limited to, participation in an interview with investigators or~~
19 ~~representatives of the healing arts board.~~

20 (g) ~~This section shall not apply to a licensee who does not have~~
21 ~~access to, and control over, certified medical records or other types~~
22 ~~of documents that belong to or are controlled by a health facility~~
23 ~~or clinic.~~

24 SEC. 173. ~~Section 4964.7 is added to the Business and~~
25 ~~Professions Code, to read:~~

26 4964.7. (a) (1) ~~Notwithstanding any other provision of law,~~
27 ~~a licensee who fails or refuses to comply with a request for the~~
28 ~~certified medical records of a patient that is accompanied by that~~
29 ~~patient's written authorization for release of records to a board~~
30 ~~together with a notice citing this section and describing the~~
31 ~~penalties for failure to comply with this section shall be required~~
32 ~~to pay to the board a civil penalty of up to one thousand dollars~~
33 ~~(\$1,000) per day for each day that the documents have not been~~
34 ~~produced after the 15th day, up to ten thousand dollars (\$10,000),~~
35 ~~unless the licensee is unable to provide the documents within this~~
36 ~~time period for good cause.~~

37 (2) ~~A health care facility shall comply with a request for the~~
38 ~~certified medical records of a patient that is accompanied by that~~
39 ~~patient's written authorization for release of records to a board~~
40 ~~together with a notice citing this section and describing the~~

1 penalties for failure to comply with this section. Failure to provide
2 the authorizing patient's certified medical records to the board
3 within 15 days of receiving the request, authorization, and notice
4 shall subject the health care facility to a civil penalty, payable to
5 the healing arts board, of up to one thousand dollars (\$1,000) per
6 day for each day that the documents have not been produced after
7 the 15th day, up to ten thousand dollars (\$10,000), unless the health
8 care facility is unable to provide the documents within this time
9 period for good cause. This paragraph shall not require health care
10 facilities to assist the board in obtaining the patient's authorization.
11 The board shall pay the reasonable costs of copying the certified
12 medical records, but shall not be required to make that payment
13 prior to the production of the medical records.

14 (b) (1) A licensee who fails or refuses to comply with a court
15 order, issued in the enforcement of a subpoena, mandating the
16 release of records to the board, shall pay to the healing arts board
17 a civil penalty of up to one thousand dollars (\$1,000) per day for
18 each day that the documents have not been produced after the date
19 by which the court order requires the documents to be produced,
20 up to ten thousand dollars (\$10,000), unless it is determined that
21 the order is unlawful or invalid. Any statute of limitations
22 applicable to the filing of an accusation by the healing arts board
23 shall be tolled during the period the licensee is out of compliance
24 with the court order and during any related appeals.

25 (2) Any licensee who fails or refuses to comply with a court
26 order, issued in the enforcement of a subpoena, mandating the
27 release of records to a board is guilty of a misdemeanor punishable
28 by a fine payable to the board not to exceed five thousand dollars
29 (\$5,000). The fine shall be added to the licensee's renewal fee if
30 it is not paid by the next succeeding renewal date. Any statute of
31 limitations applicable to the filing of an accusation by the board
32 shall be tolled during the period the licensee is out of compliance
33 with the court order and during any related appeals.

34 (3) A health care facility that fails or refuses to comply with a
35 court order, issued in the enforcement of a subpoena, mandating
36 the release of patient records to the board, that is accompanied by
37 a notice citing this section and describing the penalties for failure
38 to comply with this section, shall pay to the board a civil penalty
39 of up to one thousand dollars (\$1,000) per day for each day that
40 the documents have not been produced, up to ten thousand dollars

1 (~~\$10,000~~), after the date by which the court order requires the
2 documents to be produced, unless it is determined that the order
3 is unlawful or invalid. Any statute of limitations applicable to the
4 filing of an accusation by the board against a licensee shall be
5 tolled during the period the health care facility is out of compliance
6 with the court order and during any related appeals.

7 (4) ~~Any health care facility that fails or refuses to comply with~~
8 ~~a court order, issued in the enforcement of a subpoena, mandating~~
9 ~~the release of records to the board is guilty of a misdemeanor~~
10 ~~punishable by a fine payable to the board not to exceed five~~
11 ~~thousand dollars (\$5,000). Any statute of limitations applicable to~~
12 ~~the filing of an accusation by the board against a licensee shall be~~
13 ~~tolled during the period the health care facility is out of compliance~~
14 ~~with the court order and during any related appeals.~~

15 (e) ~~Multiple acts by a licensee in violation of subdivision (b)~~
16 ~~shall be punishable by a fine not to exceed five thousand dollars~~
17 ~~(\$5,000) or by imprisonment in a county jail not exceeding six~~
18 ~~months, or by both that fine and imprisonment. Multiple acts by~~
19 ~~a health care facility in violation of subdivision (b) shall be~~
20 ~~punishable by a fine not to exceed five thousand dollars (\$5,000);~~
21 ~~shall be reported to the State Department of Public Health, and~~
22 ~~shall be considered as grounds for disciplinary action with respect~~
23 ~~to licensure, including suspension or revocation of the license or~~
24 ~~certificate.~~

25 (d) ~~A failure or refusal of a licensee to comply with a court~~
26 ~~order, issued in the enforcement of a subpoena, mandating the~~
27 ~~release of records to the board constitutes unprofessional conduct~~
28 ~~and is grounds for suspension or revocation of his or her license.~~

29 (e) ~~Imposition of the civil penalties authorized by this section~~
30 ~~shall be in accordance with the Administrative Procedure Act~~
31 ~~(Chapter 5 (commencing with Section 11500) of Division 3 of~~
32 ~~Title 2 of the Government Code). Any civil penalties paid to, or~~
33 ~~received by, the board pursuant to this section shall be deposited~~
34 ~~into the fund administered by the board.~~

35 (f) ~~For purposes of this section, “certified medical records”~~
36 ~~means a copy of the patient’s medical records authenticated by the~~
37 ~~licensee or health care facility, as appropriate, on a form prescribed~~
38 ~~by the licensee’s board.~~

39 (g) ~~For purposes of this section, a “health care facility” means~~
40 ~~a clinic or health facility licensed or exempt from licensure~~

1 pursuant to Division 2 (commencing with Section 1200) of the
2 Health and Safety Code.

3 (h) If a board complies with Section 1684.1, 2225.5, or 2969,
4 that board shall not be subject to the requirements of this section.

5 (i) This section shall not apply to a licensee who does not have
6 access to, or control over, certified medical records or other types
7 of documents that belong to or are controlled by a health facility
8 or clinic.

9 ~~SEC. 174.~~

10 *SEC. 152.* Section 4964.8 is added to the Business and
11 Professions Code, to read:

12 4964.8. (a) Notwithstanding any other provision of law, any
13 employer of a licensee shall report to the board the suspension or
14 termination for cause, or any resignation in lieu of suspension or
15 termination for cause, of any licensee in its employ within 15
16 business days. The report shall not be made until after the
17 conclusion of the review process specified in Section 52.3 of Title
18 2 of the California Code of Regulations and *Skelly v. State*
19 *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This
20 required reporting shall not constitute a waiver of confidentiality
21 of medical records. The information reported or disclosed shall be
22 kept confidential except as provided in subdivision (c) of Section
23 800 and shall not be subject to discovery in civil cases.

24 (b) The information to be reported by the employer shall include
25 the name and license number of the licensee involved, a
26 description of the facts and circumstances of the suspension or
27 termination for cause, any resignation in lieu of suspension or
28 termination for cause, and any other relevant information deemed
29 appropriate by the employer.

30 (c) The board shall be entitled to inspect and copy the following
31 documents in the record for any suspension or termination for
32 cause, or any resignation in lieu of suspension or termination for
33 cause, resulting in action that is required to be reported pursuant
34 to this section:

35 (1) Any statement for suspension or termination of the licensee.

36 (2) Any document or exhibits relevant to the suspension or
37 termination.

38 (d) If, during the investigation by the board of the cause for the
39 termination or suspension or resignation of the licensee, it is found

1 that there has been a violation of existing state or federal law, the
2 board shall report the violation to the appropriate agency.

3 (e) For purposes of this section, “suspension or termination for
4 cause” or “resignation in lieu of suspension or termination for
5 cause” is defined as resignation, suspension, or termination from
6 employment for any of the following reasons:

7 (1) Use of controlled substances or alcohol to the extent that it
8 impairs the licensee’s ability to safely practice.

9 (2) Unlawful sale of a controlled substance or other prescription
10 items.

11 (3) Patient or client abuse, neglect, physical harm, or sexual
12 contact with a patient or client.

13 (4) Gross negligence or incompetence.

14 (5) Theft from a patient or client, any other employee, or the
15 employer.

16 (f) As used in this section, the following definitions apply:

17 (1) “Gross negligence” means a substantial departure from the
18 standard of care, which, under similar circumstances, would have
19 ordinarily been exercised by a competent licensee, and which has
20 or could have resulted in harm to the consumer. An exercise of so
21 slight a degree of care as to justify the belief that there was a
22 conscious disregard or indifference for the health, safety, or welfare
23 of the consumer shall be considered a substantial departure from
24 the standard of care.

25 (2) “Incompetence” means the lack of possession of, and the
26 failure to exercise that degree of learning, skill, care, and
27 experience ordinarily possessed by, a responsible licensee.

28 (3) “Willful” means a knowing and intentional violation of a
29 known legal duty.

30 (g) (1) Willful failure of an employer to make a report required
31 by this section is punishable by an administrative fine not to exceed
32 one hundred thousand dollars (\$100,000) per violation.

33 (2) Any failure of an employer, other than willful failure, to
34 make a report required by this section is punishable by an
35 administrative fine not to exceed fifty thousand dollars (\$50,000).

36 (h) The board shall investigate the circumstances underlying
37 any report received pursuant to this section within 30 days to
38 determine if an interim suspension order or temporary restraining
39 order should be issued. The board shall otherwise provide timely
40 disposition of the reports received pursuant to this section.

1 (i) The board shall send to the licentiate a copy of the report
2 along with the reasons for the filing of the report and notice
3 advising the licentiate of his or her right to submit additional
4 statements or other information to the board.

5 (j) Pursuant to Section 43.8 of the Civil Code, no person shall
6 incur any civil penalty as a result of making any report required
7 by this article.

8 (k) No report is required under this section where a report of
9 the action taken is already required under Section 805.

10 ~~SEC. 175.~~

11 *SEC. 153.* Section 4964.9 is added to the Business and
12 Professions Code, to read:

13 4964.9. Unless otherwise provided, on or after July 1, ~~2013~~
14 ~~2014~~, the board shall post on its Internet Web site the following
15 information, including the name and license number, in its
16 possession, custody, or control regarding every licensee ~~for which~~
17 *whom* the board licenses:

18 (a) With regard to the status of every license, whether or not
19 the licensee or former licensee is in good standing, subject to a
20 temporary restraining order, subject to an interim suspension order,
21 subject to a restriction or cease practice ordered pursuant to Section
22 23 of the Penal Code, or subject to any of the enforcement actions
23 described in Section 803.1.

24 (b) With regard to prior discipline of a licensee, whether or not
25 the licensee or former licensee has been subject to discipline by
26 the board or by the board of another state or jurisdiction, as
27 described in Section 803.1.

28 (c) Any felony conviction of a licensee reported to the board.

29 (d) All current accusations filed by the Attorney General,
30 including those accusations that are on appeal. For purposes of
31 this paragraph, “current accusation” means an accusation that has
32 not been dismissed, withdrawn, or settled, and has not been finally
33 decided upon by an administrative law judge and the board unless
34 an appeal of that decision is pending.

35 (e) Any malpractice judgment or arbitration award imposed
36 against a licensee and reported to the board.

37 (f) Any hospital disciplinary action imposed against a licensee
38 that resulted in the termination or revocation of a licensee’s hospital
39 staff privileges for a medical disciplinary cause or reason pursuant
40 to Section ~~4964.7~~ or 805.

1 (g) Any misdemeanor conviction of a licensee that results in a
2 disciplinary action or an accusation that is not subsequently
3 withdrawn or dismissed.

4 (h) Appropriate disclaimers and explanatory statements to
5 accompany the above information, including an explanation of
6 what types of information are not disclosed. These disclaimers and
7 statements shall be developed by the board and shall be adopted
8 by regulation.

9 (i) The information provided on the Internet shall be in
10 accordance with the California Public Records Act (Chapter 3.5
11 (commencing with Section 6250) of Division 7 of Title 1 of the
12 Government Code) and the Information Practices Act of 1977
13 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
14 4 of Division 3 of the Civil Code) and shall comply with the
15 Department of Consumer Affairs Guidelines for Access to Public
16 Records.

17 (j) Information provided on the Internet may not include
18 personal information, unless otherwise provided pursuant to this
19 chapter, including the home telephone number, date of birth, or
20 social security number. The information may not include the
21 licensee's address, but may include the city and county of the
22 licensee's address of record.

23 ~~SEC. 176.~~

24 *SEC. 154.* Section 4964.10 is added to the Business and
25 Professions Code, to read:

26 4964.10. (a) Unless otherwise provided, if a licensee possesses
27 a license or is otherwise authorized to practice in any state other
28 than California or by any agency of the federal government and
29 that license or authority is suspended or revoked outright, the
30 California license of the licensee shall be suspended automatically
31 for the duration of the suspension or revocation, unless terminated
32 or rescinded as provided in subdivision (c). The board shall notify
33 the licensee of the license suspension and of his or her right to
34 have the issue of penalty heard as provided in this section.

35 (b) Upon its own motion or for good cause shown, the board
36 may decline to impose or may set aside the suspension when it
37 appears to be in the interest of justice to do so, with due regard to
38 maintaining the integrity of, and confidence in, the specific healing
39 art.

(c) The issue of penalty shall be heard by an administrative law judge sitting alone or with a panel of the board, in the discretion of the board. A licensee may request a hearing on the penalty and that hearing shall be held within 90 days from the date of the request. If the order suspending or revoking the license or authority to practice is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Upon a showing to the administrative law judge or panel by the licensee that the out-of-state action is not a basis for discipline in California, the suspension shall be rescinded. If an accusation for permanent discipline is not filed within 90 days of the suspension imposed pursuant to this section, the suspension shall automatically terminate.

(d) The record of the proceedings that resulted in the suspension or revocation of the licensee's out-of-state license or authority to practice, including a transcript of the testimony therein, may be received in evidence.

(e) This section shall not apply to a licensee who maintains his or her primary practice in California, as evidenced by having maintained a practice in this state for not less than one year immediately preceding the date of suspension or revocation. Nothing in this section shall preclude a licensee's license from being suspended pursuant to any other provision of law.

(f) This section shall not apply to a licensee whose license has been surrendered, whose only discipline is a medical staff disciplinary action at a federal hospital and not for medical disciplinary cause or reason as that term is defined in Section 805, or whose revocation or suspension has been stayed, even if the licensee remains subject to terms of probation or other discipline.

(g) This section shall not apply to a suspension or revocation imposed by a state that is based solely on the prior discipline of the licensee by another state.

(h) The other provisions of this article setting forth a procedure for the suspension or revocation of a licensee's license or certificate shall not apply to summary suspensions issued pursuant to this section. If a summary suspension has been issued pursuant to this section, the licensee may request that the hearing on the penalty conducted pursuant to subdivision (c) be held at the same time as a hearing on the accusation.

1 ~~(i) A board that complies with Section 2310 shall not be subject~~
2 ~~to the requirements of this section.~~

3 ~~SEC. 177.~~

4 ~~SEC. 155.~~ Section 4982.26 of the Business and Professions
5 Code is amended to read:

6 4982.26. (a) The board shall revoke any license issued under
7 this chapter upon a decision made in accordance with the
8 procedures set forth in Chapter 5 (commencing with Section 11500)
9 of Part 1 of Division 3 of Title 2 of the Government Code, that
10 contains any finding of fact that the licensee or registrant engaged
11 in any act of sexual contact, as defined in Section 729, when that
12 act is with a patient, or with a former patient when the relationship
13 was terminated primarily for the purpose of engaging in that act.
14 The revocation shall not be stayed by the administrative law judge
15 or the board.

16 (b) Except as otherwise provided, any proposed decision or
17 decision issued under this chapter in accordance with the
18 procedures set forth in Chapter 5 (commencing with Section 11500)
19 of Part 1 of Division 3 of Title 2 of the Government Code, that
20 contains any finding of fact that the licensee has committed a sex
21 offense, shall contain an order revoking the license. The proposed
22 decision or decision shall not contain any order staying the
23 revocation of the licensee.

24 (c) As used in this section, the term ~~sex offense~~ “*sex offense*”
25 shall mean any of the following:

26 (1) Any offense for which registration is required by Section
27 290 of the Penal Code or a finding that a person committed such
28 an act.

29 (2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1,~~
30 ~~or 647(a) or (d) of the Penal Code~~ *subdivisions (a) to (d), inclusive,*
31 *of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d)*
32 *of Section 647 of the Penal Code*, or a finding that a person
33 committed such an act.

34 (3) Any attempt to commit any of the offenses specified in this
35 section.

36 (4) Any offense committed or attempted in any other state or
37 against the laws of the United States which, if committed or
38 attempted in this state, would have been punishable as one or more
39 of the offenses specified in this section.

1 *SEC. 156. Section 4990.43 is added to the Business and*
2 *Professions Code, to read:*

3 4990.43. *Notwithstanding any other provision of law, it is a*
4 *public offense, punishable by a fine not to exceed one hundred*
5 *thousand dollars (\$100,000), by imprisonment in a county jail not*
6 *to exceed one year, or by both that fine and imprisonment, for:*

7 (a) *Any person who does not hold a current and valid license*
8 *issued under the chapters the board administers and enforces as*
9 *described in Section 4990.12 to engage in that practice.*

10 (b) *Any person to fraudulently buy, sell, or obtain a license*
11 *issued under the chapters the board administers and enforces as*
12 *described in Section 4990.12 or to violate any provision of those*
13 *chapters.*

14 ~~SEC. 178:~~

15 *SEC. 157. Section 4990.44 is added to the Business and*
16 *Professions Code, to read:*

17 4990.44. (a) The board may delegate to its executive officer
18 the authority to adopt a proposed default decision where an
19 administrative action to revoke a license has been filed and the
20 licensee has failed to file a notice of defense or to appear at the
21 hearing and a proposed default decision revoking the license has
22 been issued.

23 (b) The board may delegate to its executive officer the authority
24 to adopt a proposed settlement agreement where an administrative
25 action to revoke a license has been filed by the board and the
26 licensee has agreed to the revocation or surrender of his or her
27 license.

28 (c) The executive officer shall, at scheduled board meetings,
29 report to the board the number of proposed default decisions or
30 proposed settlement agreements adopted pursuant to this section.

31 ~~SEC. 179:~~

32 *SEC. 158. Section 4990.45 is added to the Business and*
33 *Professions Code, to read:*

34 4990.45. (a) Notwithstanding Section 11415.60 of the
35 Government Code, the board may enter into a settlement with a
36 licensee or applicant in lieu of the issuance of an accusation or
37 statement of issues against that licensee or applicant, as applicable.

38 (b) The settlement shall include language identifying the factual
39 basis for the action being taken and a list of the statutes or
40 regulations violated.

1 (c) A person who enters *into* a settlement pursuant to this section
2 is not precluded from filing a petition, in the timeframe permitted
3 by law, to modify the terms of the settlement or petition for early
4 termination of probation, if probation is part of the settlement.

5 (d) Any settlement against a licensee executed pursuant to this
6 section shall be considered discipline and a public record and shall
7 be posted on the applicable board's Internet Web site. Any
8 settlement against an applicant executed pursuant to this section
9 shall be considered a public record and shall be posted on the
10 applicable board's Internet Web site.

11 (e) The executive officer shall, at scheduled board meetings,
12 report to the board the number of proposed settlement agreements
13 adopted pursuant to this section.

14 ~~SEC. 180.~~

15 *SEC. 159.* Section 4990.46 is added to the Business and
16 Professions Code, to read:

17 4990.46. (a) The license of a licensee shall be suspended
18 automatically during any time that the licensee is incarcerated after
19 conviction of a felony, regardless of whether the conviction has
20 been appealed. The board shall, immediately upon receipt of the
21 certified copy of the record of conviction, determine whether the
22 license of the licensee has been automatically suspended by virtue
23 of his or her incarceration, and if so, the duration of that
24 suspension. The board shall notify the licensee in writing of the
25 license suspension and of his or her right to elect to have the issue
26 of penalty heard as provided in subdivision (d).

27 (b) Upon receipt of the certified copy of the record of conviction,
28 if after a hearing before an administrative law judge from the Office
29 of Administrative Hearings it is determined that the felony for
30 which the licensee was convicted was substantially related to the
31 qualifications, functions, or duties of a licensee, the board shall
32 suspend the license until the time for appeal has elapsed, if no
33 appeal has been taken, or until the judgment of conviction has been
34 affirmed on appeal or has otherwise become final, and until further
35 order of the board.

36 (c) Notwithstanding subdivision (b), a conviction of a charge
37 of violating any federal statute or regulation or any statute or
38 regulation of this state, regulating dangerous drugs or controlled
39 substances, or a conviction of Section 187, 261, 262, or 288 of the
40 Penal Code, shall be conclusively presumed to be substantially

1 related to the qualifications, functions, or duties of a licensee and
2 no hearing shall be held on this issue. However, upon its own
3 motion or for good cause shown, the board may decline to impose
4 or may set aside the suspension when it appears to be in the interest
5 of justice to do so, with due regard to maintaining the integrity of,
6 and confidence in, the practice regulated by the board.

7 (d) (1) Discipline may be ordered against a licensee in
8 accordance with the statutes and regulations of the board when the
9 time for appeal has elapsed, the judgment of conviction has been
10 affirmed on appeal, or an order granting probation is made
11 suspending the imposition of sentence, irrespective of a subsequent
12 order under Section 1203.4 of the Penal Code allowing the person
13 to withdraw his or her plea of guilty and to enter a plea of not
14 guilty, setting aside the verdict of guilty, or dismissing the
15 accusation, complaint, information, or indictment.

16 (2) The issue of penalty shall be heard by an administrative law
17 judge from the Office of Administrative Hearings. The hearing
18 shall not be ~~had~~ *held* until the judgment of conviction has become
19 final or, irrespective of a subsequent order under Section 1203.4
20 of the Penal Code, an order granting probation has been made
21 suspending the imposition of sentence; except that a licensee may,
22 at his or her option, elect to have the issue of penalty decided before
23 those time periods have elapsed. Where the licensee so elects, the
24 issue of penalty shall be heard in the manner described in
25 subdivision (b) at the hearing to determine whether the conviction
26 was substantially related to the qualifications, functions, or duties
27 of a licensee. If the conviction of a licensee who has made this
28 election is overturned on appeal, any discipline ordered pursuant
29 to this section shall automatically cease. Nothing in this subdivision
30 shall prohibit the board from pursuing disciplinary action based
31 on any cause other than the overturned conviction.

32 (e) The record of the proceedings resulting in a conviction,
33 including a transcript of the testimony in those proceedings, may
34 be received in evidence.

35 (f) Any other provision of law setting forth a procedure for the
36 suspension or revocation of a license issued by the board shall not
37 apply to proceedings conducted pursuant to this section.

38 ~~SEC. 181.~~

39 *SEC. 160.* Section 4990.47 is added to the Business and
40 Professions Code, to read:

1 4990.47. (a) Except as otherwise provided, any proposed
2 decision or decision issued in accordance with the procedures set
3 forth in Chapter 5 (commencing with Section 11500) of Part 1 of
4 Division 3 of Title 2 of the Government Code, that contains any
5 finding of fact that the licensee engaged in any act of sexual contact
6 with a patient, as defined in subdivision (c) of Section 729, or any
7 finding that the licensee has committed a sex offense, shall contain
8 an order revoking the license. The proposed decision shall not
9 contain any order staying the revocation of the licensee.

10 (b) As used in this section, the term ~~sex offense~~ “*sex offense*”
11 shall mean any of the following:

12 (1) Any offense for which registration is required by Section
13 290 of the Penal Code or a finding that a person committed such
14 an act.

15 (2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1,~~
16 ~~or 647(a) or (d) of the Penal Code subdivisions (a) to (d), inclusive,~~
17 ~~of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d)~~
18 ~~of Section 647 of the Penal Code,~~ or a finding that a person
19 committed such an act.

20 (3) Any attempt to commit any of the offenses specified in this
21 section.

22 (4) Any offense committed or attempted in any other state or
23 against the laws of the United States which, if committed or
24 attempted in this state, would have been punishable as one or more
25 of the offenses specified in this section.

26 ~~SEC. 182. Section 4990.48 is added to the Business and~~
27 ~~Professions Code, to read:~~

28 ~~4990.48. (a) Except as otherwise provided, with regard to an~~
29 ~~individual who is required to register as a sex offender pursuant~~
30 ~~to Section 290 of the Penal Code, or the equivalent in another state~~
31 ~~or territory, under military law, or under federal law, the board~~
32 ~~shall be subject to the following requirements:~~

33 ~~(1) The board shall deny an application by the individual for~~
34 ~~licensure in accordance with the procedures set forth in Chapter~~
35 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
36 ~~Title 2 of the Government Code.~~

37 ~~(2) If the individual is licensed under this chapter, the board~~
38 ~~shall promptly revoke the license of the individual in accordance~~
39 ~~with the procedures set forth in Chapter 5 (commencing with~~
40 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~

Code. The board shall not stay the revocation and place the license on probation.

(3) The board shall not reinstate or reissue the individual's license. The board shall not issue a stay of license denial nor place the license on probation.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under Section 314 of the Penal Code.

(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2008. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

SEC. 183. Section 4990.49 is added to the Business and Professions Code, to read:

4990.49. (a) Notwithstanding any other provision of law making a communication between a licensee and his or her patients a privileged communication, those provisions shall not apply to investigations or proceedings conducted by the board. Members of the board, deputies, employees, agents, the office of the Attorney General, and representatives of the board shall keep in confidence during the course of investigations the names of any patients whose records are reviewed and may not disclose or reveal those names, except as is necessary during the course of an investigation, unless and until proceedings are instituted. The authority under this subdivision to examine records of patients in the office of a licensee

1 is limited to records of patients who have complained to the board
2 about that licensee.

3 ~~(b) Notwithstanding any other provision of law, the Attorney~~
4 ~~General and his or her investigative agents, and the board and its~~
5 ~~investigators and representatives may inquire into any alleged~~
6 ~~violation of the laws under the jurisdiction of the board or any~~
7 ~~other federal or state law, regulation, or rule relevant to the practice~~
8 ~~regulated by the board, whichever is applicable, and may inspect~~
9 ~~documents relevant to those investigations in accordance with the~~
10 ~~following procedures:~~

11 ~~(1) Any document relevant to an investigation may be inspected,~~
12 ~~and copies may be obtained, where a patient provides written~~
13 ~~authorization.~~

14 ~~(2) Any document relevant to the business operations of a~~
15 ~~licensee, and not involving medical records attributable to~~
16 ~~identifiable patients, may be inspected and copied where relevant~~
17 ~~to an investigation of a licensee.~~

18 ~~(c) In all cases where documents are inspected or copies of those~~
19 ~~documents are received, their acquisition or review shall be~~
20 ~~arranged so as not to unnecessarily disrupt the medical and business~~
21 ~~operations of the licensee or of the facility where the records are~~
22 ~~kept or used.~~

23 ~~(d) Where certified documents are lawfully requested from~~
24 ~~licensees in accordance with this section by the Attorney General~~
25 ~~or his or her agents or deputies, or investigators of any board, the~~
26 ~~documents shall be provided within 10 business days of receipt of~~
27 ~~the request, unless the licensee is unable to provide the certified~~
28 ~~documents within this time period for good cause, including, but~~
29 ~~not limited to, physical inability to access the records in the time~~
30 ~~allowed due to illness or travel. Failure to produce requested~~
31 ~~certified documents or copies thereof, after being informed of the~~
32 ~~required deadline, shall constitute unprofessional conduct. A board~~
33 ~~may use its authority to cite and fine a licensee for any violation~~
34 ~~of this section. This remedy is in addition to any other authority~~
35 ~~of the board to sanction a licensee for a delay in producing~~
36 ~~requested records.~~

37 ~~(e) Searches conducted of the office or medical facility of any~~
38 ~~licensee shall not interfere with the recordkeeping format or~~
39 ~~preservation needs of any licensee necessary for the lawful care~~
40 ~~of patients.~~

~~(f) The licensee shall cooperate with the board in furnishing information or assistance as may be required, including, but not limited to, participation in an interview with investigators or representatives of the board.~~

~~(g) This section shall not apply to a licensee who does not have access to, and control over, certified medical records or other types of documents that belong to or are controlled by a health facility or clinic.~~

~~SEC. 184. Section 4990.50 is added to the Business and Professions Code, to read:~~

~~4990.50. (a) (1) Notwithstanding any other provision of law, a licensee who fails or refuses to comply with a request for the certified medical records of a patient that is accompanied by that patient's written authorization for release of records to a board together with a notice citing this section and describing the penalties for failure to comply with this section shall be required to pay to the board a civil penalty of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the 15th day, up to ten thousand dollars (\$10,000); unless the licensee is unable to provide the documents within this time period for good cause.~~

~~(2) A health care facility shall comply with a request for the certified medical records of a patient that is accompanied by that patient's written authorization for release of records to a board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's certified medical records to the board within 15 days of receiving the request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the board, of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced after the 15th day, up to ten thousand dollars (\$10,000); unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the board in obtaining the patient's authorization. The board shall pay the reasonable costs of copying the certified medical records, but shall not be required to make that payment prior to the production of the medical records.~~

~~(b) (1) A licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the~~

1 release of records to the board, shall pay to the board a civil penalty
2 of up to one thousand dollars (\$1,000) per day for each day that
3 the documents have not been produced after the date by which the
4 court order requires the documents to be produced, up to ten
5 thousand dollars (\$10,000), unless it is determined that the order
6 is unlawful or invalid. Any statute of limitations applicable to the
7 filing of an accusation by the board shall be tolled during the period
8 the licensee is out of compliance with the court order and during
9 any related appeals.

10 (2) Any licensee who fails or refuses to comply with a court
11 order, issued in the enforcement of a subpoena, mandating the
12 release of records to a board is guilty of a misdemeanor punishable
13 by a fine payable to the board not to exceed five thousand dollars
14 (\$5,000). The fine shall be added to the licensee's renewal fee if
15 it is not paid by the next succeeding renewal date. Any statute of
16 limitations applicable to the filing of an accusation by the board
17 shall be tolled during the period the licensee is out of compliance
18 with the court order and during any related appeals.

19 (3) A health care facility that fails or refuses to comply with a
20 court order, issued in the enforcement of a subpoena, mandating
21 the release of patient records to the board, that is accompanied by
22 a notice citing this section and describing the penalties for failure
23 to comply with this section, shall pay to the board a civil penalty
24 of up to one thousand dollars (\$1,000) per day for each day that
25 the documents have not been produced, up to ten thousand dollars
26 (\$10,000), after the date by which the court order requires the
27 documents to be produced, unless it is determined that the order
28 is unlawful or invalid. Any statute of limitations applicable to the
29 filing of an accusation by the board against a licensee shall be
30 tolled during the period the health care facility is out of compliance
31 with the court order and during any related appeals.

32 (4) Any health care facility that fails or refuses to comply with
33 a court order, issued in the enforcement of a subpoena, mandating
34 the release of records to the board is guilty of a misdemeanor
35 punishable by a fine payable to the board not to exceed five
36 thousand dollars (\$5,000). Any statute of limitations applicable to
37 the filing of an accusation by the healing arts board against a
38 licensee shall be tolled during the period the health care facility is
39 out of compliance with the court order and during any related
40 appeals.

~~(c) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000), shall be reported to the State Department of Public Health, and shall be considered as grounds for disciplinary action with respect to licensure, including suspension or revocation of the license or certificate.~~

~~(d) A failure or refusal of a licensee to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the healing arts board constitutes unprofessional conduct and is grounds for suspension or revocation of his or her license.~~

~~(e) Imposition of the civil penalties authorized by this section shall be in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code). Any civil penalties paid to, or received by, the board pursuant to this section shall be deposited into the fund administered by the board.~~

~~(f) For purposes of this section, “certified medical records” means a copy of the patient’s medical records authenticated by the licensee or health care facility, as appropriate, on a form prescribed by the licensee’s board.~~

~~(g) For purposes of this section, a “health care facility” means a clinic or health facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.~~

~~(h) If a board complies with Section 1684.1, 2225.5, or 2969, that board shall not be subject to the requirements of this section.~~

~~(i) This section shall not apply to a licensee who does not have access to, or control over, certified medical records or other types of documents that belong to or are controlled by a health facility or clinic.~~

~~SEC. 185.~~

SEC. 161. Section 4990.51 is added to the Business and Professions Code, to read:

4990.51. (a) Notwithstanding any other provision of law, any employer of a licensee shall report to the board the suspension or

1 termination for cause, or any resignation in lieu of suspension or
2 termination for cause, of any licensee in its employ within 15
3 business days. The report shall not be made until after the
4 conclusion of the review process specified in Section 52.3 of Title
5 2 of the California Code of Regulations and *Skelly v. State*
6 *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This
7 required reporting shall not constitute a waiver of confidentiality
8 of medical records. The information reported or disclosed shall be
9 kept confidential except as provided in subdivision (c) of Section
10 800 and shall not be subject to discovery in civil cases.

11 (b) The information to be reported by the employer shall include
12 the name and license number of the licensee involved, a
13 description of the facts and circumstances of the suspension or
14 termination for cause, any resignation in lieu of suspension or
15 termination for cause, and any other relevant information deemed
16 appropriate by the employer.

17 (c) The board shall be entitled to inspect and copy the following
18 documents in the record for any suspension or termination for
19 cause, or any resignation in lieu of suspension or termination for
20 cause, resulting in action that is required to be reported pursuant
21 to this section:

22 (1) Any statement for suspension or termination of the licensee.

23 (2) Any document or exhibits relevant to the suspension or
24 termination.

25 (d) If, during the investigation by the board of the cause for the
26 termination or suspension or resignation of the licensee, it is found
27 that there has been a violation of existing state or federal law, the
28 board shall report the violation to the appropriate agency.

29 (e) For purposes of this section, “suspension or termination for
30 cause” or “resignation in lieu of suspension or termination for
31 cause” is defined as resignation, suspension, or termination from
32 employment for any of the following reasons:

33 (1) Use of controlled substances or alcohol to the extent that it
34 impairs the licensee’s ability to safely practice.

35 (2) Unlawful sale of a controlled substance or other prescription
36 items.

37 (3) Patient or client abuse, neglect, physical harm, or sexual
38 contact with a patient or client.

39 (4) Gross negligence or incompetence.

1 (5) Theft from a patient or client, any other employee, or the
2 employer.

3 (f) As used in this section, the following definitions apply:

4 (1) “Gross negligence” means a substantial departure from the
5 standard of care, which, under similar circumstances, would have
6 ordinarily been exercised by a competent licensee, and which has
7 or could have resulted in harm to the consumer. An exercise of so
8 slight a degree of care as to justify the belief that there was a
9 conscious disregard or indifference for the health, safety, or welfare
10 of the consumer shall be considered a substantial departure from
11 the standard of care.

12 (2) “Incompetence” means the lack of possession of, and the
13 failure to exercise that degree of learning, skill, care, and
14 experience ordinarily possessed by, a responsible licensee.

15 (3) “Willful” means a knowing and intentional violation of a
16 known legal duty.

17 (g) (1) Willful failure of an employer to make a report required
18 by this section is punishable by an administrative fine not to exceed
19 one hundred thousand dollars (\$100,000) per violation.

20 (2) Any failure of an employer, other than willful failure, to
21 make a report required by this section is punishable by an
22 administrative fine not to exceed fifty thousand dollars (\$50,000).

23 (h) The board shall investigate the circumstances underlying
24 any report received pursuant to this section within 30 days to
25 determine if an interim suspension order or temporary restraining
26 order should be issued. The board shall otherwise provide timely
27 disposition of the reports received pursuant to this section.

28 (i) The board shall send to the licentiate a copy of the report
29 along with the reasons for the filing of the report and notice
30 advising the licentiate of his or her right to submit additional
31 statements or other information to the board.

32 (j) Pursuant to Section 43.8 of the Civil Code, no person shall
33 incur any civil penalty as a result of making any report required
34 by this article.

35 (k) No report is required under this section where a report of
36 the action taken is already required under Section 805.

37 ~~SEC. 186.~~

38 *SEC. 162.* Section 4990.52 is added to the Business and
39 Professions Code, to read:

1 4990.52. Unless otherwise provided, on or after July 1, ~~2013~~
2 2014, the board shall post on its Internet Web site the following
3 information, including the name and license number, in its
4 possession, custody, or control regarding every licensee ~~for which~~
5 *whom* the board licenses:

6 (a) With regard to the status of every license, whether or not
7 the licensee or former licensee is in good standing, subject to a
8 temporary restraining order, subject to an interim suspension order,
9 subject to a restriction or cease practice ordered pursuant to Section
10 23 of the Penal Code, or subject to any of the enforcement actions
11 described in Section 803.1.

12 (b) With regard to prior discipline of a licensee, whether or not
13 the licensee or former licensee has been subject to discipline by
14 the board or by the board of another state or jurisdiction, as
15 described in Section 803.1.

16 (c) Any felony conviction of a licensee reported to the board.

17 (d) All current accusations filed by the Attorney General,
18 including those accusations that are on appeal. For purposes of
19 this paragraph, “current accusation” means an accusation that has
20 not been dismissed, withdrawn, or settled, and has not been finally
21 decided upon by an administrative law judge and the board unless
22 an appeal of that decision is pending.

23 (e) Any malpractice judgment or arbitration award imposed
24 against a licensee and reported to the board.

25 (f) Any hospital disciplinary action imposed against a licensee
26 that resulted in the termination or revocation of a licensee’s hospital
27 staff privileges for a medical disciplinary cause or reason pursuant
28 to Section ~~4990.50~~ or 805.

29 (g) Any misdemeanor conviction of a licensee that results in a
30 disciplinary action or an accusation that is not subsequently
31 withdrawn or dismissed.

32 (h) Appropriate disclaimers and explanatory statements to
33 accompany the above information, including an explanation of
34 what types of information are not disclosed. These disclaimers and
35 statements shall be developed by the board and shall be adopted
36 by regulation.

37 (i) The information provided on the Internet shall be in
38 accordance with the California Public Records Act (Chapter 3.5
39 (commencing with Section 6250) of Division 7 of Title 1 of the
40 Government Code) and the Information Practices Act of 1977

(Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) and shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records.

(j) Information provided on the Internet may not include personal information, unless otherwise provided pursuant to this chapter, including the home telephone number, date of birth, or social security number. The information may not include the licensee's address, but may include the city and county of the licensee's address of record.

~~SEC. 187.~~

SEC. 163. Section 4990.53 is added to the Business and Professions Code, to read:

4990.53. (a) Unless otherwise provided, if a licensee possesses a license or is otherwise authorized to practice in any state other than California or by any agency of the federal government and that license or authority is suspended or revoked outright, the California license of the licensee shall be suspended automatically for the duration of the suspension or revocation, unless terminated or rescinded as provided in subdivision (c). The board shall notify the licensee of the license suspension and of his or her right to have the issue of penalty heard as provided in this section.

(b) Upon its own motion or for good cause shown, the board may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of, and confidence in, the specific healing art.

(c) The issue of penalty shall be heard by an administrative law judge sitting alone or with a panel of the board, in the discretion of the board. A licensee may request a hearing on the penalty and that hearing shall be held within 90 days from the date of the request. If the order suspending or revoking the license or authority to practice is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Upon a showing to the administrative law judge or panel by the licensee that the out-of-state action is not a basis for discipline in California, the suspension shall be rescinded. If an accusation for permanent discipline is not filed within 90 days of the suspension imposed pursuant to this section, the suspension shall automatically terminate.

1 (d) The record of the proceedings that resulted in the suspension
2 or revocation of the licensee's out-of-state license or authority to
3 practice, including a transcript of the testimony therein, may be
4 received in evidence.

5 (e) This section shall not apply to a licensee who maintains his
6 or her primary practice in California, as evidenced by having
7 maintained a practice in this state for not less than one year
8 immediately preceding the date of suspension or revocation.
9 Nothing in this section shall preclude a licensee's license from
10 being suspended pursuant to any other provision of law.

11 (f) This section shall not apply to a licensee whose license has
12 been surrendered, whose only discipline is a medical staff
13 disciplinary action at a federal hospital and not for medical
14 disciplinary cause or reason as that term is defined in Section 805,
15 or whose revocation or suspension has been stayed, even if the
16 licensee remains subject to terms of probation or other discipline.

17 (g) This section shall not apply to a suspension or revocation
18 imposed by a state that is based solely on the prior discipline of
19 the licensee by another state.

20 (h) The other provisions of this article setting forth a procedure
21 for the suspension or revocation of a licensee's license or certificate
22 shall not apply to summary suspensions issued pursuant to this
23 section. If a summary suspension has been issued pursuant to this
24 section, the licensee may request that the hearing on the penalty
25 conducted pursuant to subdivision (c) be held at the same time as
26 a hearing on the accusation.

27 ~~(i) A board that complies with Section 2310 shall not be subject~~
28 ~~to the requirements of this section.~~

29 ~~SEC. 188.~~

30 *SEC. 164.* Section 4992.33 of the Business and Professions
31 Code is amended to read:

32 4992.33. (a) The board shall revoke any license issued under
33 this chapter upon a decision made in accordance with the
34 procedures set forth in Chapter 5 (commencing with Section 11500)
35 of Part 1 of Division 3 of Title 2 of the Government Code, that
36 contains any finding of fact that the licensee or registrant engaged
37 in any act of sexual contact, as defined in Section 729, when that
38 act is with a patient, or with a former patient when the relationship
39 was terminated primarily for the purpose of engaging in that act.

1 The revocation shall not be stayed by the administrative law judge
2 or the board.

3 (b) Except as otherwise provided, any proposed decision or
4 decision issued under this chapter in accordance with the
5 procedures set forth in Chapter 5 (commencing with Section 11500)
6 of Part 1 of Division 3 of Title 2 of the Government Code, that
7 contains any finding of fact that the licensee has committed a sex
8 offense, shall contain an order revoking the license. The proposed
9 decision or decision shall not contain any order staying the
10 revocation of the licensee.

11 (c) As used in this section, the term ~~sex offense~~ “*sex offense*”
12 shall mean any of the following:

13 (1) Any offense for which registration is required by Section
14 290 of the Penal Code or a finding that a person committed such
15 an act.

16 (2) Any offense described in ~~Section 243.4(a)–(d), 261.5, 313.1,~~
17 ~~or 647(a) or (d) of the Penal Code subdivisions (a) to (d), inclusive,~~
18 *of Section 243.4, Section 261.5 or 313.1, or subdivision (a) or (d)*
19 *of Section 647 of the Penal Code*, or a finding that a person
20 committed such an act.

21 (3) Any attempt to commit any of the offenses specified in this
22 section.

23 (4) Any offense committed or attempted in any other state or
24 against the laws of the United States which, if committed or
25 attempted in this state, would have been punishable as one or more
26 of the offenses specified in this section.

27 ~~SEC. 189.~~

28 *SEC. 165.* Section 12529.8 is added to the Government Code,
29 to read:

30 12529.8. (a) Any healing arts board described in Division 2
31 (commencing with Section 500) of, the Business and Professions
32 Code may utilize the model prescribed in Sections 12529 to
33 12529.6, inclusive, for the investigation and prosecution of some
34 or all of its enforcement actions and may utilize the services of the
35 Department of Justice Health Quality Enforcement Section or the
36 licensing section. If a board elects to proceed pursuant to this
37 section and utilizes the services of the licensing section, the
38 Department of Justice shall assign attorneys to work on location
39 at the licensing unit of the Division of Investigation of the
40 Department of Consumer Affairs.

1 (b) The report requirements contained in Section 12529.7 shall
2 apply to any healing arts board that utilizes those provisions for
3 enforcement.

4 (c) This section shall not apply to any healing arts board listed
5 in subdivision (a) of Section 12529.

6 ~~SEC. 190. (a) It is the intent of the Legislature that the~~
7 ~~Department of Consumer Affairs shall, on or before December~~
8 ~~31, 2012, establish an enterprise information technology system~~
9 ~~necessary to electronically create and update healing arts license~~
10 ~~information, track enforcement cases, and allocate enforcement~~
11 ~~efforts pertaining to healing arts licensees. The Legislature intends~~
12 ~~the system to be designed as an integrated system to support all~~
13 ~~business automation requirements of the department's licensing~~
14 ~~and enforcement functions.~~

15 ~~(b) The Legislature also intends the department to enter into~~
16 ~~contracts for telecommunication, programming, data analysis, data~~
17 ~~processing, and other services necessary to develop, operate, and~~
18 ~~maintain the enterprise information technology system.~~

19 ~~SEC. 191.~~

20 *SEC. 166.* No reimbursement is required by this act pursuant
21 to Section 6 of Article XIII B of the California Constitution for
22 certain costs that may be incurred by a local agency or school
23 district because, in that regard, this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.

29 However, if the Commission on State Mandates determines that
30 this act contains other costs mandated by the state, reimbursement
31 to local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.